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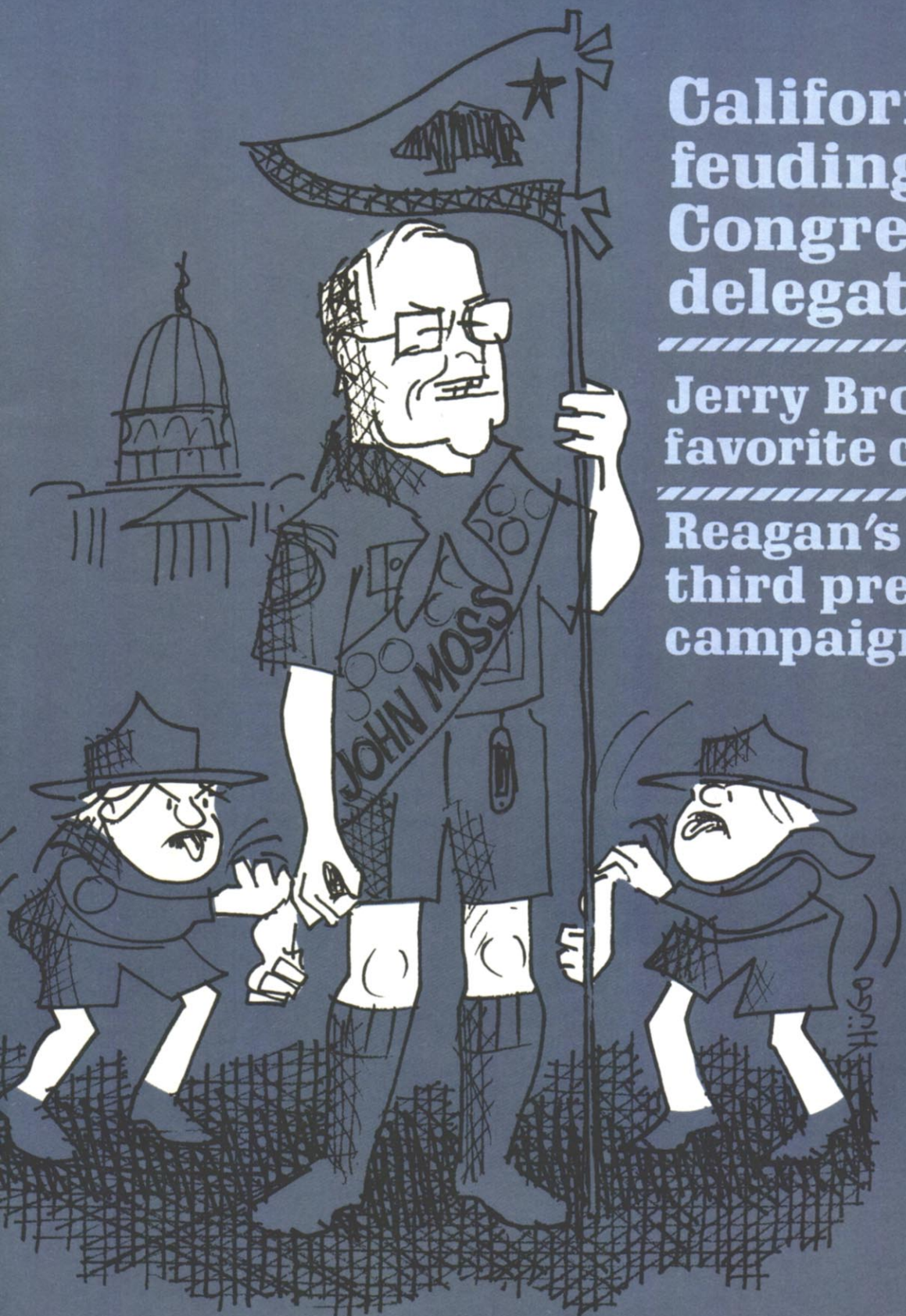
California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS



California's feuding Congressional delegation

Jerry Brown's favorite cop

Reagan's third presidential campaign

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A PERSONAL PERSPECTIVE . . .

By Ed Salzman

Ruth, Russell and Post

Governors, legislators and judges come and go, and the state government hardly misses a beat. But this month, a non-elected official will drop the baton in Sacramento, and there probably isn't anyone capable of carrying it.

Legislative Analyst A. Alan Post is a near impossible act to follow. Over the past 27 years, the man who has often been described as the Legislature's "chief fiscal watchdog" has built an unsurpassed reputation for keen analysis, foresight, objectivity and, above all, absolute nonpartisanship. Someone with those talents can undoubtedly be found, but how about Post's skills as a humorist, actor, artist, administrator, scholar and economist?

The Legislature's Joint Budget Committee, for whom he worked — at least theoretically — has been conducting a nationwide search for a successor. Senator Dennis Carpenter, the committee chairman, appears doomed to failure. No new fiscal advisor can be expected to replace Post, who has been as much an institution as a mortal.

Lawmakers might as well retire the title of legislative analyst, just as the Boston Celtics and the New York Yankees have retired the uniform numbers of Bill Russell, Bob Cousy, Babe Ruth and Lou Gehrig. A new title would help lift the Post burden from the successor's back and allow the newcomer to do his or her own thing.

The committee has recognized the unique problem by hiring a personnel specialist, Roy Stephens, to recruit applicants. There will be plenty of economists seeking the position because the pay is good and the prestige is excellent. There are always people who think they can meet any challenge — even the replacement of a human who has unfortunately been nearly deified.

But the Legislature is unrealistic if it thinks it can find someone who can play devil's advocate and handle a variety of touchy missions for lawmakers precisely with Post's skill and discretion. No one in Post's shop apparently has developed sufficient status among lawmakers to get the job; otherwise there would be no need for the nationwide search. If the new analyst comes from out of state, it will take years to develop the California background and understand the subtle skills needed to attain Post-like reverence. If the successor is a business executive or a governmental official from within California, he or she will come to Sacramento with a reputation that is bound to offend at least one element in the Capitol political mixture.

Perhaps the biggest reason why Carpenter and company won't find a new Alan Post is that very few people in the world can, like Post, disagree — and even attack and intimidate — without being disagreeable.

California Journal

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PRESIDENT AND PUBLISHER
Thomas R. Hoeber

EDITOR
Ed Salzman

ART DIRECTOR
Jan Castle

ASSOCIATE EDITOR
Alice Nauman

WASHINGTON CORRESPONDENT:
Leo Rennert

CONTRIBUTING ARTISTS: Ric Hügo, Donna Rivers, Lee Judge

CIRCULATION MANAGER:
Barbara Aguirre

STAFF: Hope Tuttle, Dorie Runyon, Caroline Landry

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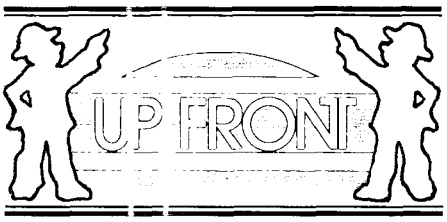

It was generally ignored at the time, but the state Board of Equalization came within a whisker of refusing to levy the electricity-bill surcharge needed to pay for the operation of the state Energy Commission this year. The message was clear: The board has little confidence in the work of the commission.

Given California's recent weather patterns, what the state may need is a new water project to pump water from the south to the north.

Some Republican judges appointed by Ronald Reagan are griping about Chief Justice Rose Bird's use of trial-court judges to fill temporary vacancies on the Supreme Court. The lower-court judges are so eager for the assignments, according to the Republicans, that they will do almost anything to please Bird and the Governor. One Alameda County Republican described the process as "Browning of the judiciary."

John Mockler, one of the state's few genuine school-finance experts, is leaving his job with the state Department of Education to become the Los Angeles city school board's fiscal watchdog (at $45,000 a year).

Democratic Assemblyman Ronald Cordova of Orange County, who represents the most Republican district in the state, already has a potential opponent — Republican Marion Bergeson, a Newport-Mesa school board member. Had Bergeson not run as a write-in candidate last year, Cordova might not have been elected.

Gene Washington, wide receiver for the San Francisco 49ers, probably will launch a political career after he stops playing football for a living. He served as chairman of Mayor George Moscone's No-on-B campaign in the recent election.

Often parked outside the Sacramento headquarters of the state Office of Appropriate Technology: a bicycle marked "For Official Use Only."

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WEEKLY MEETINGS: 'NOTHING HAPPENS IN THERE'

The state's malfunctioning delegation in Washington

By MICHAEL D. GREEN

About a year ago, Congressman John Moss of Sacramento leaned back from his desk and pronounced the California delegation in the House of Representatives "probably closer to being cohesive" than at any time he could remember.

At that time, Moss had just become dean of the delegation, replacing former Representative Chet Holifield of Montebello — and his views bore a touch of the defensive. Already there were faint and anonymous murmurings inside the delegation about the quality of his leadership. But Moss seemed unconcerned. He praised his team's "willingness to deal with the over-all interests of the state," and said the delegation was taking "definite steps on issues affecting California." As for the state's newest representatives, he called them proudly "one hell of a good bunch of freshmen!"

Now it is one year later, and the image of a unified, effective state delegation has been badly tarnished by personal rivalries and public squabbling. Even Moss admits that "we do not have the same degree of cohesiveness as in the last Congress." Others put it more bluntly:

"I don't see a tremendous amount of leadership," says Representative Leon Panetta of Monterey. He says the delegation is badly split and unless it gets its act together shortly "we're going to lose our piece of the action."

Of the weekly, 8 a.m. delegation meetings, Congressman Phillip Burton of San Francisco sketches this picture:

"Nothing happens in there. You can't even hear anything but grunts before the first cup of coffee is poured. They're all still half asleep. They're not even awake yet. Really! All you get are grunts. You don't even get words, sentences, phrases. They don't know what's happening. They're too busy passing the orange juice."

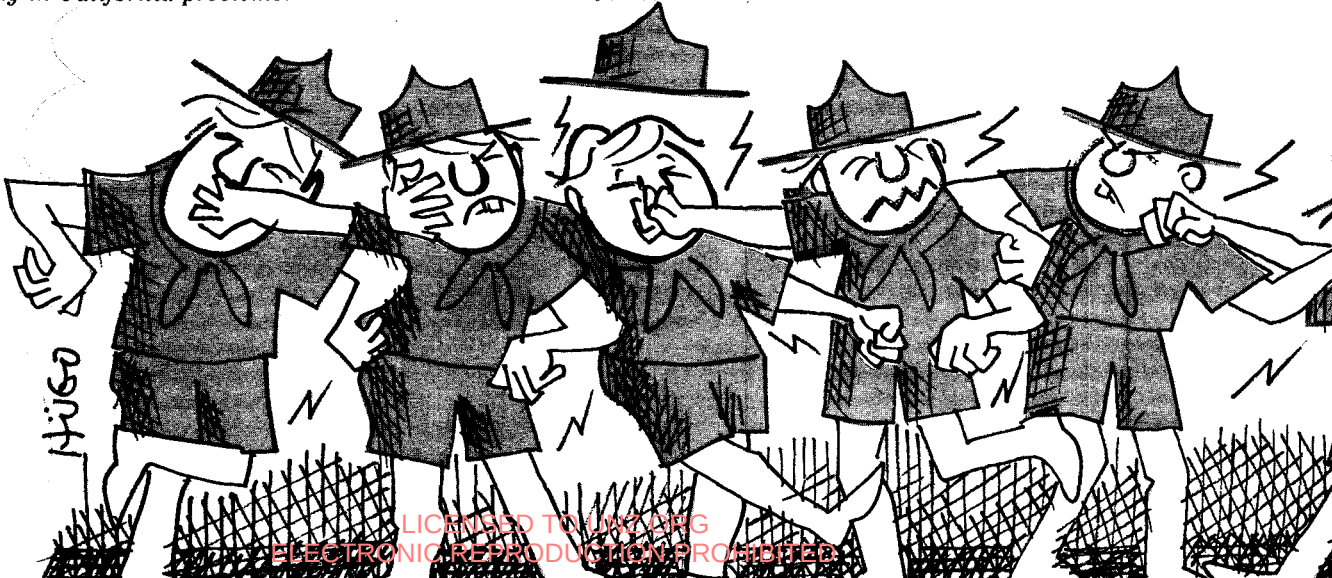
Representative Norman Mineta of San Jose — noting that Moss is always after him for not attending those breakfast meetings — says: "I have better things to do with my time." He too says the delegation is seriously split and adds, "There is no cohesiveness in it . . . John Moss's ego is as big as the Cannon House Office Building."

Political fallout

Moss is not the only target of criticism. Indeed, the personal bickering within the delegation has produced at least one visible case of political fallout. John McFall of Manteca and Phil Burton of San Francisco both ran last year for the post of majority leader. McFall figured that, after a dutiful stint as House majority whip, his time had come. But Burton — confident of his own greater strength — proposed that whichever Californian was eliminated first should support the other, so that the post of majority leader would go to the state. Instead, Burton lost by a single vote to Representative Jim Wright of Texas — and foremost among the Californians deserting Burton was John McFall.

Of course personality clashes are nothing new in politics. But for years, something of a mystique prevailed about the California delegation in the eyes of non-California members of Congress. From the outside, at least, there was the appearance of a remarkable degree of unity and cohesion. The delegation went after, and got, more federal dollars for the state than it might otherwise have received. For lawmakers from a state like New York, who are famous for not getting along, the California achievement was thought to be something of a marvel on the order of Disneyland or the Orange Julius.

Michael D. Green is a Washington free-lance writer specializing in California problems.



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It is that image, deserved or not, that is suffering badly this year. And there remains a fundamental question: Can the state's congressmen, despite personal differences, effectively advance the collective interests of their constituents, as well as the parochial interests of their own congressional districts?

Chuck Bosley, former administrative assistant to the late Democratic Senator Clair Engle over a decade ago, recalls that, "At the time there was a feeling that the delegation was frequently at odds with each other and members were not speaking with a single voice on matters. But in retrospect, there was frank and open discussion on many matters.

"The delegation met regularly and had very, very candid and frank discussions on a range of major issues. And the Senator -- either Engle or I or his representative — was always there as a matter of policy."

Bosley also notes the large number of members at that time who were elected and came to Congress together — the so-called Class of '58 ("a big Democratic year"), followed by an influx of more new members in the early '60s. To some extent, there continued a fraternal sense of belonging to the same class as the years progressed, he observes. But, in his view, while it produced lively communication, it did not necessarily add up to a unified delegation.

Leon Panetta, once the legislative assistant to former Republican Senator Thomas Kuchel, is not convinced that California has a real tradition of delegation cohesiveness. But what the delegation did have a decade ago, he says, was senior members on each of the key committees having jurisdiction over different areas of major interest. If you had a problem related to agriculture, you went to see Representative B. F. Sisk of Fresno; on Interior matters, to Harold (Bizz) Johnson of Roseville; on tax problems, to Jim Corman of Van Nuys; on aerospace contracts, George Miller of Alameda, and so on.

Committee placement of Californians — and their progressively accumulating seniority — was strategic in protecting the interests of one part of the state or another, or of the state as a whole. The real key was seniority and the power and deference it brought.

Rewarding the good

Discipline within the delegation could be exercised at least to some extent by the authority then wielded by the dean over the granting or denial of desirable committee assignments and other favors. When Chet Holifield was dean, he was not shy about rewarding the good and punishing the wicked. Thus, though it was not always apparent on every issue, there was still a semblance of unity on major issues affecting the state. To the degree it existed, it was best dramatized by the success the delegation enjoyed year after year in beefing up the budget for California water projects. This annual success accounts in no small measure for the mystique that has grown up in Congress about the California delegation's supposed prowess in generally getting what it wants. Whatever its internal water fights, the delegation could and did present a powerful united front in perennially pumping up the share of federal dollars going to various projects in each part of the state.

To a lesser degree, support for the space program and for more federal money for California's advanced educational network have been issues around which the delegation could unify and exercise its collective muscle. Another was the exemption for California from the Clean Air Act which permits it to enforce its own stricter, state standards.

Two big changes

But in the last half-dozen years or so, two major changes have taken place:

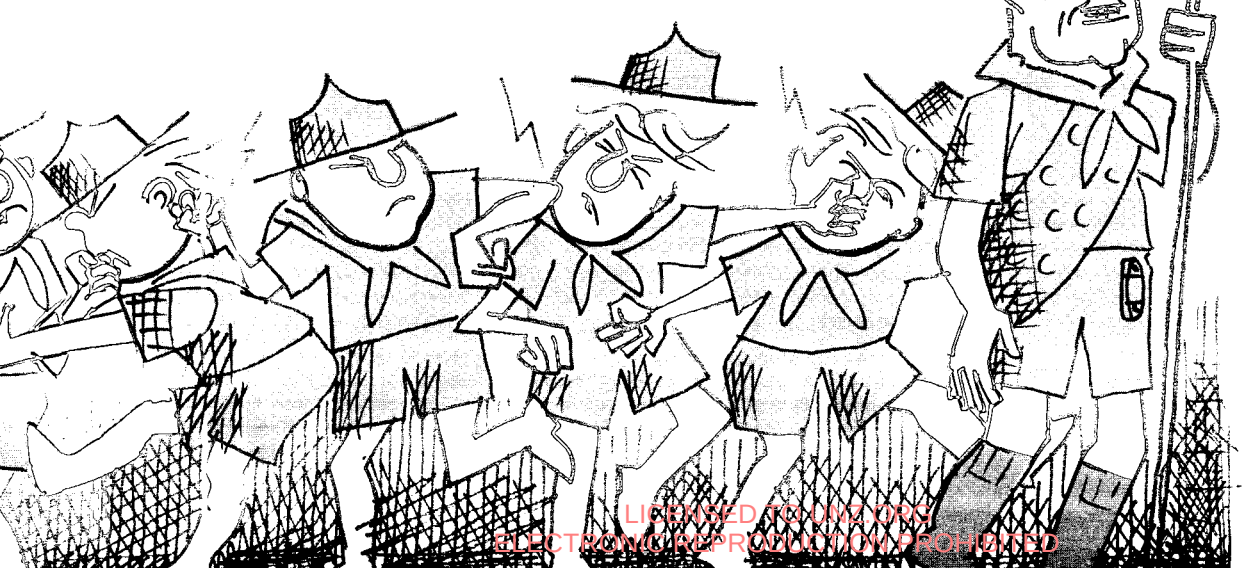
Newcomers. Nearly half the members of the state's delegation are new since 1970. Even collectively, the bright young newcomers do not fill the void in delegation power and leadership left by the departure of such veterans as Holifield. The starkest evidence of the change within the delegation occurred recently, on a House vote on President Carter's plan to scrap 17 controversial water projects (not including California's Auburn Dam project). Fully 14 California congressmen — a majority of them relative newcomers — voted against the projects. A decade ago, such opposition to the cause of water development would have been unthinkable.

Congressman Panetta of Monterey believes that among younger lawmakers (and more than 50 percent of the House has been elected since 1970), "mutual interests have developed that have crossed state lines." Blacks like California's Yvonne Burke, Ron Dellums and Augustus Hawkins focus much of their energy as participants in the House's Black Caucus. For members with rural districts, there is a Rural Caucus. There is also a community of environmentally minded congressmen in the House.

According to Chuck Bosley — now administrative assistant to Representative Johnson — environmental concerns have had an enormous impact in transcending more parochial concerns. So has the sheer growth of government in the last decade because of the proliferation of programs and problems, Bosley says.

In coping with this proliferation, Panetta sees "a built-in division between more establishment people who believe in the old process and a lot of younger members coming up who believe the process should be challenged more, questions should be asked . . ."

Mineta finds himself working closely with half a dozen or so of these younger California members — Jerry Patterson,



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Mark Hannaford, Henry Waxman, Tony Beilenson and John Krebs. As a former chairman of the well-organized "revolutionary" class of 1974 freshmen that toppled several committee chairmen, Mineta also established strong ties with other younger members from all over the country.

Yet this generational coalition, if such it is, scarcely adds up to a replacement for the functional power that existed in the House by virtue of seniority. And this leads to the second major change in recent years:

Reforms. The seniority system has been measurably emasculated, if not slain, in the name of reform. With it, the old method of making committee assignments, giving great power to the state delegation's dean, has been altered dramatically. Now the dean's voice on appointments is a mere whisper.

"All we have left now," recently lamented Ken Wade, former director of the State of California's Washington office, "are Bizz and Sisk."

And it is precisely at this time that long dormant delegations from states in other regions of the country are beginning to forge themselves into effective parochial coalitions. Their intent is to obtain for themselves a larger share of federal dollars which they maintain they have been unfairly denied in the past — often by states like California.

How to carve up federal dollars among the states has always been a fixed element in legislative life. But with this new session of Congress, there appears to be emerging a new, determined and well-organized effort by different regional blocs to change the patterns by which money is apportioned among the states.

Saved by seniority

Recently the House voted a change in formula for allocating $4 billion in public works jobs funds, a change that would have given California $67 million less than the share it would otherwise have received. Ironically, it was the remnants of the seniority system, and the power and influence attached to it, that saved the money for the state. As chairman of the conference committee, Representative Johnson was able to default the House position and accept a more advantageous Senate formula for distributing the funds.

A coalition of Northeast, Northern and Midwestern industrial states, claiming they have not been receiving their "share of the pot," has been organized recently. The South has its own community of interests — as do the so-called "Sunbelt States" of the Southwest.

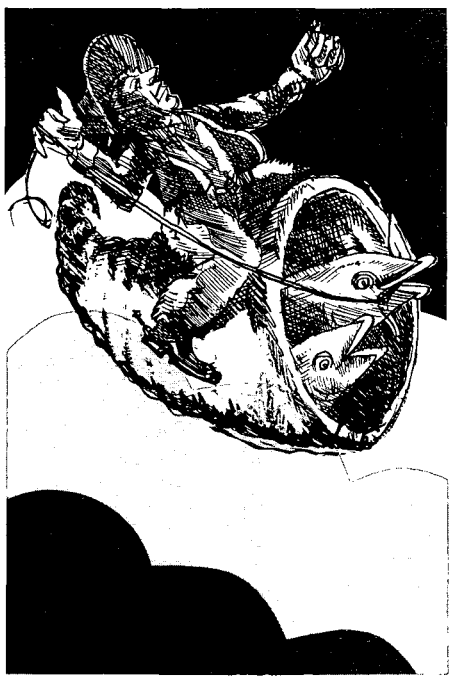
Such moves have not gone unnoticed by Senator Alan Cranston, who worked skillfully in the Senate to preserve the formula more advantageous for California in the public works jobs bill. But random effort to form a new Western

How to win friends – and funds

Every spring, a flock of Californians temporarily migrate eastward to Washington, D.C., to throw the annual Golden State Luncheon. They are a generous breed of party-givers, operating under the beneficent eye of Chairman Harold T. (Bizz) Johnson of the House Public Works and Transportation Committee. They represent every industry, business and organization having anything to do with any kind of water project or water-related project in the state. Their guests include California congressmen, senators, aides, reporters, friends and assorted others.

The menu ranges from Humboldt Harbor Dungeness crab with seafood sauce to sliced hot Portuguese linguisa, Pacific Coast oyster Hangtown Fry and San Francisco sourdough French bread, Sacramento Valley rice, (pilaf style) — and everything else from San Joaquin fresh asparagus with mustard mayonnaise to fresh mushrooms in sherry sauce, Rouge et Noir brand Petaluma dessert cheeses, mixed fruit compote with Kirschwasser, Sun Giant almonds and Arroyo Grande Valley fresh strawberries with Cointreau — all washed down with select California table wines.

As bloated lawmakers and guests finally begin to move slowly from the banquet room, they are handed more: gigantic doggie bags to take home, stuffed with Pacific tuna and Sunkist fancy California oranges, Anheuser-Busch bicentennial key rings, Standard Oil



sewing machine oilers, metric conversion tables, prune recipe booklets, California cut flowers, Leslie salt, dried onions, C&H sugar packets, Ortega chiles, and much more, compliments of "Your Hosts: California's Ports and Harbors and those supporting Water-Related Commerce, Industry and Recreation."

In addition to Californians, also stuffed to the gills are certain selected non-California lawmakers who sit on committees of appropriate importance in the Congress. The pleasant aftertaste of the Golden State Luncheon always lasts for several weeks each spring, or at least through the appropriations hearings on California water projects. There lawmakers can always find a little extra federal money for projects — perhaps still savoring the thought of the fresh sliced avocado with tomato, vinaigrette, or the Half Moon Bay artichokes or the Freed-Teller-Freed mocha-java coffee and Christian Brothers brandy.

The water lobbyists once again trickle homeward to California for the remainder of the year to spend their federal largesse. It will be time to return again the following spring, bringing their roasted almonds and fancy solid pack albacore. And as always, Californians on Capitol Hill will be waiting with fresh anticipation, along with everyone else who can somehow manage to get in.

One begins to notice after more than a few congressional sessions of this, however, that not only do the same faces appear year after year, but that the Golden State Luncheon crowd seems to be getting older and older, like a meeting of the local chemical plant's 35-year club. And while the great annual California water pilgrimmage and feast may seem a reassuring fixed element in an otherwise changing world, there is also betrayed in each nostalgic reunion the memories of earlier times that have passed.

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caucus — similar to an unsuccessful effort launched a decade ago by Senator Barry Goldwater — appears to be generating no excitement. Prospects for it would indeed seem dubious in light of the disarray of the California delegation.

"I don't think there is any question but that the largest delegation in this country could be a lot stronger and more effective in pursuing matters that are of interest to California," Leon Panetta declares. "It's not (the fault of) Moss . . . Other senior members of the delegation could be coming together more as a cohesive unit." Though he did not list names or examples, Panetta may well have had in mind two incidents of recent unhappiness within the delegation.

One was over the choice of Robert Leggett to head a delegation committee charged with the task of coming up with a position on drought relief. Other members of his drought committee have accused him of going off on his own and not consulting closely with them, with the result that there is no unified delegation position on what form drought relief should take.

The unreachable consensus

Secondly, a delegation committee headed by John Krebs, to advise the Carter Administration on applicants for federal jobs, turned into a total fiasco. As many as nine persons were recommended for a single job. Some positions were already filled. And some senior members pushed their own choices for jobs independently, without going through Krebs. The Administration, understandably confused, simply put things in abeyance while the delegation tried to reach consensus.

"I don't give a damn if they're critical of me," says Moss. "I am not the most popular member of the delegation, you know . . . It's very difficult for a delegation to get its act together when people absent themselves from delegation meetings and don't come to the meetings to make their criticism constructive."

Moss defends Leggett's performance as head of the drought committee and says of the absence of a unified delegation position: "There has to be, first of all, a state position — and that has not been articulated."

"By Brown?" he is asked.

"By Brown!"

Singling out Krebs for criticism, Moss says, would be "highly unfair. He only chairs that subcommittee on federal appointments. It has other members."

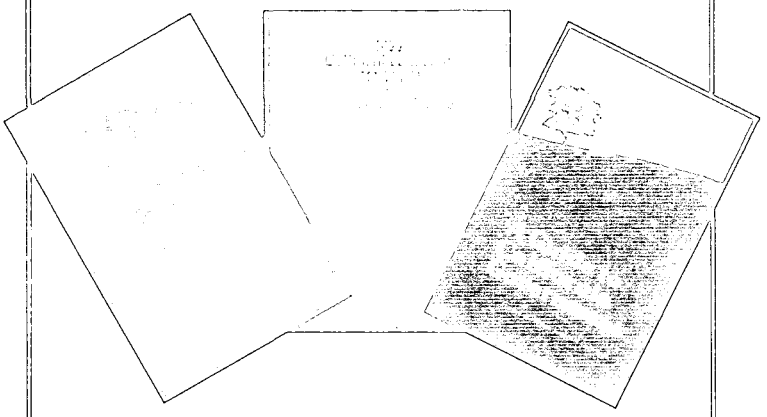
As for the decreased cohesiveness in the delegation, Moss attributes it to "an impossible volume of legislation" submitted by President Carter, that leaves members with little time to do much other than carry on their committee work. He also cites an increased volume of constituent mail and more casework.

One result is that Democratic and Republican members of the delegation have not met regularly this year, as they did in the previous session of Congress, Moss says. But he still insists that by all "the normal indicators" there is still more cohesiveness than there used to be.

There is, to be sure, a change in the atmosphere of the House with the entry of large numbers of younger members. And it may simply be — as the large number of votes against the 17 water projects would indicate — that the perception of what California's needs are has changed within the state itself. No more, perhaps, is it automatically assumed that more dams, more federal installations, more highways and more construction projects are automatically a good thing.

But there still remains a definable state interest to be guarded and pursued by a strong delegation, just as there was when the seniority system reigned and the delegation was at least thought to be unified.

The three sources of basic information on California government



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NO AGE PROBLEM 'IF HE DOESN'T ACT 70'

Is it Citizens for the Republic or yet another Reagan campaign?

By MARTIN SMITH

Jack Cunningham's requests were modest enough. He wanted his picture taken with Ronald Reagan for use in a mailer in his long-shot campaign for Congress. He also hoped to be given some campaign money by Reagan's new political action committee, Citizens for the Republic. Cunningham is a conservative Republican, the kind that the Reagan committee was established to help — but he didn't get either of his requests granted right away. Instead, CFTR paid for a public opinion survey of Cunningham's district in Washington state: heavily blue-collar, lopsidedly Democratic, with a congressional vacancy created when Brock Adams resigned to become President Carter's secretary of transportation. Reagan's committee thought there might be a better way to campaign than distributing photographs of Cunningham shaking hands with the former governor of California.

The poll found one. The survey indicated the over-riding concern of voters in the district was unemployment. This is an issue which Republicans normally leave to Democrats, but the survey discovered the voters' concern had a contemporary twist: an anti-environmental backlash. Since his Democratic opponent was a strong environmentalist, this provided Cunningham with his golden opportunity. Forgetting about the posed photograph with Reagan, Cunningham took his money from the GOP to campaign as a protector of jobs against environmental extremism. Today he sits in Congress as the Republican successor to the Democratic Adams.

Citizens for the Republic is unusual in more than its political sophistication. It is the reincarnation of Ronald Reagan's 1976 presidential campaign committee, a fact which leads inevitably to the suspicion that it is part of a holding operation for yet another Reagan presidential campaign in 1980. This suspicion draws quick denials from such top Reagan associates as John Sears and Lyn Nofziger, who point out that by transferring the substantial leftovers from its treasury to CFTR, the 1976 Reagan campaign committee eliminated all hope of the former governor ever getting more than a small percentage back for any future campaign. Under federal law, no political action committee (PAC) may contribute more than $5,000 to a campaign, even if the money originally was given to the PAC by the candidate.

The origins of CFTR also are unusual. They involve the highly effective sabotage which President Ford was able to perform on his challenger's campaign for the Republican nomination last year. CFTR was conceived after Reagan returned to his Southern California home last November from campaigning for those Republicans who had backed his presidential candidacy. He and his top advisers then were confronted with a problem for which there is little precedent in presidential politics: what to do with a $1.5 million surplus in campaign funds.

A bitter reminder

The money itself was a bitter reminder of how well Gerald Ford had undercut Reagan's campaign. Most of the surplus was the final installment Reagan received from the Federal Election Commission in presidential campaign funds. It arrived too late to help him when he needed it most — during the final drive to win delegate support in the last of the GOP presidential primaries and state conventions. It was late because Ford, as president, deliberately delayed signing legislation authorizing the distribution of the federal money. When the funds finally reached the Reagan campaign committee, there was nothing left on which to spend them. Eventually, about one third of the $1.5 million would have to be returned to the United States Treasury, but the Federal Election Committee has proved to be even slower in submitting a detailed bill for refunds than it was in delivering the money. So the Reaganites have had use of the full $1.5 million for more than half of 1977. And because the Reagan committee had used privately raised money to pay campaign bills which most of the federal funds were intended to cover, it was entitled to keep about $1 million.

Martin Smith is the political editor for the McClatchy Newspapers.

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Deciding what to do with the leftover funds proved to be a fairly easy decision, accordng to one of those in on the deliberations. "Just in talking among ourselves, we came to the conclusion that the best thing we could do with it would be to try to continue the effort that we had begun in 1975, not in terms of electing Reagan president, but in terms of advancing his cause," said Lyn Nofziger, who was to become the top staff member of CFTR. "To do that, you have to go ahead and set up an organization."

Creating that organization may have involved a touch of vengeance as well as a dose of ideology. Reagan's anger at Ford's tactics rankles all the more because of his two firm convictions. One is his certainty that he could have defeated Jimmy Carter if he and not Ford had won the GOP nomination in Kansas City. The second belief Reagan has long held: The conservatism for which he speaks does not represent merely a minority view within a minority party. He believes it reflects the thinking of the large majority of Americans, both Democrats and Republicans. Reagan is convinced that all that has kept his brand of conservatism from becoming national policy is the lack of a Republican presidential nominee espousing that philosophy and articulating it effectively by relating it to the concerns of average Americans.

As a result, Reagan also believes that the Ford White House, through the unfair leverage it was able to exercise on the Republican process of nominating a presidential candidate, not only cheated him out of the presidency but cheated a majority of Americans out of the chance to have their views become federal policy. Citizens for the Republic, born from the ashes of the 1976 Reagan presidential campaign and with the defeated candidate as its leader, was created to move the nation to the right by moving the party even further in that direction. It seeks to do this by supporting conservative Republicans for office at all levels of government, improving the electioneering skills of conservative campaign workers and eliminating the image of the GOP as the party of the country club set.

Organizing the committee was quickly done, and the names of the members of CFTR's steering committee read like a directory of the top leadership of Reagan's 1976 campaign committee. Besides Nofziger, campaign staff leaders on the steering committee include Mike Deaver, Pete Hannaford, Martin Anderson, David West, Ed Meese and John Sears, who was the campaign director. Other members include two U.S. Senators: Paul Laxalt of Nevada, the campaign's national chairman, and Richard Schweiker of Pennsylvania, the Reagan house liberal who was the candidate's designated vice presidential running mate and who is anxious for Reagan to run again in 1980. Still others on the steering committee are William French Smith, Reagan's personal attorney and political backer; Efrem Zimbalist Jr., the actor and a Reagan point man in attacks on Henry Kissinger at the Kansas City convention; Richard Wirthlin, the Orange County pollster, and Holmes Tuttle, one of the senior members of the Reagan kitchen cabinet.

CFTR was functioning by January. By February 1st the first issue of the new committee's newsletter — with a 10-year-old photograph of Reagan on the front page — was in the mails to a subscription list which soon would grow to 25,000 names, and the Nofziger-led staff was looking for conservative Republican candidates to support.

Despite some talk by some die-hard Reaganites of splitting off from the GOP, Reagan has committed himself and CFTR to working within the Republican party. But he didn't do it first without making threatening noises against the new Republican national chairman, William Brock. Reagan made it clear that a conservative walkout from the party was not impossible if those in official party positions failed to prove accommodating to Reagan conservatives. The veiled threat was delivered by Reagan in a face-to-face meeting with Brock and later underlined in a speech by Reagan to the California Republican Assembly. Then it was further reinforced by letters to Brock, complaining of the lack of appointments of Reagan conservatives to Republican National Committee staff positions. Brock saw the light and made the appointments. He also took pains to praise Reagan publicly for his "magnificent" contributions to party unity.

Pulling power

CFTR demonstrated early its effectiveness and the pulling power of the Reagan name in raising a permanent campaign treasury. The committee's 13 fulltime employees have established a direct mail operation, using as its core 180,000 names of Reagan campaign contributors and workers across the nation. These names — supplemented with other lists of conservatives such as the subscribers to *Human Events* — were sent more than three-quarters of a million pieces of mail during the first six months of CFTR's operations. Through these solicitations the new committee has received more than $300,000 in additional contributions, enough to pay staff salaries, support the newsletter and restore funds borrowed as working capital from the $1.5 million in seed money supplied by the Ford White House.

Until next year's mid-term elections, the most visible part of CFTR's work are the Nofziger-edited newsletters and the quarterly board meetings, featuring regional workshops at which conservative Republicans are instructed in the practicalities of electioneering.

The newsletters still bear a photograph of Reagan on every page one, but more recent photographs have been substituted for the one of a decade ago. The articles take a hard line against Carter appointments and pronouncements, against Democrats who talk like Republicans but vote in favor of government spending and against the "Democrat-leaning national press." A recent short item noted that a poll of Iowa voters showed Reagan to be viewed as the strongest contender for the Republican presidential nomination in 1980. Reagan columns warn against trade with Cuba and President Carter's proposed changes in election laws. Most of it is standard conservative fare, but there are also recurrent criticisms of major corporate political action committees which contribute to Democratic candidates. The newsletter has called for Republicans to be the party of free enterprise but not of big business.

These strictures are consistent with Reagan's position

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that a conservative Republican majority can be created out of the party's traditional economic conservatism and the blue-collar conservatism in social matters such as lifestyles. These blue collar conservatives, traditional Democratic voters most of the time, would have to be sold on the conservative principle that economic troubles, including unemployment, stem from inflation, and that inflation is the creation of too much government spending.

The 180,000 names of previous Reagan contributors and campaign workers are drawn from every state in the union but chiefly from Reagan country: California, Texas, the Rocky Mountain states and those parts of the South where Reagan has enjoyed his strongest support. CFTR's first quarterly board meeting last June in Salt Lake City demonstrated Reagan's continuing popularity in that western heartland of conservatism. About 600 of his most loyal supporters from all over the West attended the event — some flying in by chartered airplane, others buying up the seats in an Amtrak coach, still others driving hundreds of miles. They heard a luncheon benediction by Ezra Taft Benson which included an attack on socialism, and they cheered enthusiastic expressions of ongoing support for Reagan. He was described as "our next president" by Schweiker. Utah State GOP Chairman Richard Richards, another CFTR steering committee member and the man Reagan preferred as national Republican chairman over Brock, said that if only the GOP had nominated Reagan and Schweiker "Reagan would be president today."

Reagan responded to these statements the same way he always responds to such gratifying but politically inconvenient expressions: He ignored them and launched into a standard speech warning of the dangers of deficit spending, the need for stronger armaments and the inadequacies of government in just about all but police and military activities.

The day's emphasis, however, was not on the recycled Reagan speech but on the political workshops held concurrently with the board meeting. John Sears lectured on ways of capturing and retaining the initiative in campaigns and presented mock political problems for workshop participants to solve. How, he asked in one exercise, would you have advised Richard Nixon to gain the initiative over Watergate during the final days of his White House tenure? Veteran GOP publicist Jan McCoy conducted a seminar entitled "They Are Not The Enemy" on working cooperatively and effectively with political reporters. Hers was not an easy assignment; she had to spend time refuting one participant's argument that the Rockefeller family controlled the national news media.

Such instruction in basic politicking is designed to give CFTR a dimension missing in most other conservative movements which also have money and manpower but lack political expertise. Sears sees the 1976 Reagan campaign as providing a particularly valuable legacy in this regard:

"A number of the people that were involved in the Reagan campaign effort are interested in what the committee does and have the capability of doing things like providing or recommending campaign managers in various states. We worked with an awful lot of people when we went through as many primaries and convention states as we did."

White House yearning

This vigorous after-life provided for the Reagan campaign committee leads back to the possibility that the former governor wants to try once again for the presidential nomination in 1980. There are two obvious answers to that. The first is that, of course, Reagan considers running again. He has, after all, demonstrated a long-lived yearning for the White House, comparable to the presidential desires of Richard Nixon or Hubert Humphrey. Neither of them ever went so far as to challenge a sitting president of his own party for the nomination. But no less obvious is the fact that, from Reagan's viewpoint, there is no sense in talking about that now — not in public, not even with his top associates. It would serve no purpose. The 1978 congressional and gubernatorial elections must be held first to determine who else might be in a position to seek the nomination. (One possibility is Illinois Governor James Thompson.) Those elections also may show how much the 1980 Republican nomination would be worth if they give many clues about President Carter's possible vulnerabilities.

Reagan's biggest problem in a 1980 campaign would be his age. He will be 70 on March 11, 1981, which is only a few weeks after the start of the next presidential term. If nominated, he would be the oldest standard-bearer ever selected by either major party. John Sears, however, takes a sanguine view of the issue and compares it to the position of some Republicans, a decade ago, that Richard Nixon should not be nominated in 1968 because he was a two-time loser, having been defeated in the 1960 presidential election and the 1962 California gubernatorial contest. Sears thinks Reagan could surmount the age problem just as Nixon surmounted his image as a loser.

"Things like being a loser and age are usually things that politicians are saying, and what they really mean is, 'We don't want to support you, and we aren't going to say exactly why right now, but if you want some reason why we won't, we'll give you one,'" Sears says.

"But they don't really amount to anything as far as the voter is concerned. Now if the fellow is 32, and he acts 82, well, he's got an age problem. If you take somebody who is 70 or something and doesn't look or act that, I don't know that that's going to hurt him."

Wait-and-see time

If time is against Reagan in this sense, it is on his side in another as he waits for 1980. He is better known than almost any other leading Republican. Ford is the exception, but, out of office, is unlikely to be much of a force, much less a strong contender for the party's nomination at the 1980 convention. He will find himself without much more power there than Harry Truman was able to summon for the Democratic conventions of 1956 or 1960 when he was unable to prevent the nominations of Adlai Stevenson and, four years later, John Kennedy. Reagan's situation is best described by Sears:

"It certainly is a matter in his case, perhaps more than anybody else's, of waiting a couple of years and seeing if he wants to (run) and whether conditions are right to do it again. That's not as true of the others, since he does have a constituency and can raise money. So he doesn't need to spend the time during the next couple of years worrying about that aspect of it. A number of the others, I think, would have to do a number of things in the next couple of years to better their chances."

These assets — the acknowledged ability to raise money and the freedom from any need to spend a lot of it to make himself better known — make Reagan's gift of his 1976 campaign fund leftovers to the CFTR less of an act of political self-denial. For the time being, it is all fitting together rather nicely for Reagan. The money which was too late to help him win the presidency is being put to use to turn the party away from those who were on Ford's side. It should help guarantee that the party's next presidential nominee will be, if not Reagan himself, then some other articulate and unvarnished conservative. Reagan, in the meantime, can do what he likes best and at which he is superb — preach the conservative gospel without having to wake up the next morning and face the problems of governing. He can afford just to let things happen for a while.

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Who ran the state courts, Kleps or the chief justice?

By Ed Salzman

If there was one trait demonstrated by Chief Justice Rose Elizabeth Bird during the time she served as an agency secretary in Sacramento, it was that she rules her domain with an iron hand, that she places trust primarily in old friends and that she makes almost all final decisions herself.

If there was one characteristic displayed by Ralph N. Kleps during the 16 years he served as administrative director of the California courts, it was an ability to exert such strong leadership that he, rather than the chief justice, controlled the staff and often the policies of the California judicial system.

Thus, when Bird succeeded Donald Wright as chief justice, an irresistible force met the indestructible object. It was, of course, Kleps who yielded because his tools of office in the final analysis were only those handed to him by the chief justice.

It was obvious on May 31st that there had been a conflict between Bird and Kleps. Patrick J. Clark, the public information attorney for the Administrative Office of the Courts, had the unpleasant job of issuing press releases, one after the other, from Bird and Kleps announcing that he had "retired" or "stepped down" depending upon which announcement you read. (The release from Bird was, significantly, issued first.)

Was it simply a conflict between two strong personalities? Did Kleps have to go because Bird insisted on an old friend in the job? Or were there substantive issues between them on how the courts should be run and who should wield administrative power?

No errand boy, he

A conflict of personalities was obvious, and Bird did want someone with whom she was comfortable as head of the administrative office. (She eventually appointed Ralph Gampell, outgoing president of the State Bar and an old friend from San Jose.) But there was a major issue that made Kleps' departure inevitable — whether Bird would delegate powers and how the legal staff of the courts would function.

On the day before Bird's investiture ceremony, Kleps handed Bird letters of delegation to sign. That was nothing unusual; chief justices going back to Phil Gibson had delegated substantial authority over operations of the judicial system to the administrative director. But Rose Bird isn't a Phil Gibson or a Roger Traynor or a Donald Wright. She runs her own show, and she refused to sign the papers. That refusal meant the departure of Kleps, who would have been relegated to errand boy for Bird without delegated authority.

Kleps prefers not to talk about the circumstances surrounding his departure, but said he was facing mandatory

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retirement in four years (he's 63) "and I decided to do something different." But what about the issue of delegated authority? "That was the reason for the creation of the position," he explained. Some 17 years ago, none of the duties of the chief justice could be delegated. The problems of staff management and case- and temporary-judge assignments fell on the chief justice's desk along with the weighty decision caseload. The constitution was amended in 1960, Kleps recalled, so that these administrative duties could be taken off the back of the chief justice, who was Gibson at that time. Before taking the court job in 1961, Kleps had served as legislative counsel and as such had displayed an ability to cope with a variety of legal issues and manage a large staff.

No delegator, she

On the surface, it might appear that Bird is entering into the domain of the nitpicking, which inevitably will detract from the time she can devote to the appellate cases before the high court. And there might be some truth to that. It remains to be seen, however, how much real authority she will give to old-friend Gampell.

To Bird, the delegation issue didn't merely involve the shuffling of relatively unimportant papers and decisions which could be classed as strictly administrative. The issue of staff control, she indicated, goes to the heart of the vital decision-making process employed by the court.

The best argument for Bird's contention was presented in an article last March by law professor Phillip E. Johnson in the *California Law Review* published at the University of California's Boalt Hall of Law in Berkeley. Johnson, a criminal law specialist who had served as a law clerk for the chief justices of both the state and United States Supreme courts, wrote a 23-page indictment of the system used by the state's high court to reach decisions. In effect, he said that too often the justices were controlled by the staff (which was, in turn, controlled by Kleps).

"During my past 10 years as a law professor teaching criminal law and procedure," Johnson emphasized, "I have many times had the impression while reading an opinion of the California Supreme Court that some of the justices who signed it simply could not have understood what it was holding. Sometimes a decision will introduce an important and unprecedented innovation in the criminal law without dissent or without any indication that the court appreciated the novelty of the approach." This is not the case, he added, in decisions reported by the United States Supreme Court. "This is not to say that opinions of the United States Supreme Court are necessarily superior in quality to those of the California Supreme Court," he continued. "An opinion can be very bad indeed and yet still reflect the real views of the justices who signed it."

What's wrong?

Johnson offered extensive analyses of cases in which he claims the justices could not have known what they were doing. In one such instance, the court added an unprecedented element to the doctrine of malice aforethought which is pivotal in murder cases. "In any court except the California Supreme Court, one would expect such an innovation to spark extensive and sharp debate in the form of

PRECAUTION AGAINST FUTURE McCOMB CASES

Should high-court justices be limited to 12-year terms?

By K. Connie Kang

The agonizing experience the state judiciary suffered in trying to remove a senile California Supreme Court justice from the bench has produced at least one novel suggestion for judicial reform: Limit the tenure of a Supreme Court justice to a single 12-year term.

The idea is being offered by Robert Gnaizda, a former deputy health secretary in the Brown Administration and now senior partner of Public Advocates Inc.

Gnaizda denies emphatically that his plan is directed at the new chief justice, Rose Elizabeth Bird, even though he first proposed it last March as the Commission on Judicial Appointments met to consider public testimony on her appointment. Following Bird to the speaker's table, Gnaizda praised the Governor for "recognizing that minorities and women must play a major role in the judicial process." However, he said he hadn't come to endorse or oppose Bird's or Wiley Manuel's nomination. Rather, he said, he had come to use the forum to question the present system of providing all justices with what is, in effect, unlimited tenure.

Gnaizda hopes to find key legislators to introduce his proposal as a constitutional amendment next year, thus getting it qualified for the statewide ballot. He has already found an ally in Democratic Senator Arlen Gregorio of San Mateo, who is considering sponsoring it. "Staying in one position too long tends to blur one's perspective of the whole," Gregorio says. "A change stimulates the best in a person."

Potentially popular

If Gnaizda could get his proposal on the ballot, it might do well at the polls. The public appears to be generally dissatisfied with judges it considers too "soft" on criminals. A proposal for limited judicial terms could be the 1978 equivalent of the Political Reform Act of 1974, which voters approved overwhelmingly in their reaction to Watergate. Still, Gregorio points out that judges form a powerful interest group, with friends in high places. So far they've managed to defeat measures for mandatory retirement at age 70 and

K. Connie Kang is a reporter for the San Francisco Examiner.

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dissenting or concurring opinion," he commented. But no justice was apparently aware of the significance of the decision. He cited the death penalty as another example of judicial inattention. In 1972, when the state Supreme Court declared capital punishment unconstitutional, a single opinion was published for the six-justice majority, with a brief dissent from former Justice Marshall McComb. When the United States Supreme Court took similar action in 1972, nine separate opinions were produced.

What's wrong? Is it the heavy workload of the court? Johnson doesn't think so. The court has a large and able staff, and it has a right to pride itself on being an innovative and progressive court. The basic problem, according to the Berkeley professor, is that "the court's own decision-making procedures are responsible for the occasional poorly considered opinion." The decision-making process:

○ **The court receives a petition** for hearing, and the case is assigned to one of the justices. A law clerk prepares a "conference memorandum" for the court. This memo analyzes the case and recommends whether a hearing should be granted.

○ **If a hearing is granted,** the chief justice assigns the case to one of the justices who voted in favor or acceptance of the petition. The case is assigned to a law clerk, who researches the issues and writes a "calendar memorandum." This document is circulated only to the justices, not to the lawyers in the case. The term "memorandum" is misleading, according to Johnson, because it is really a draft opinion. In some cases, these advocacy papers are written by staff members; in others the justices play active roles. But an experienced law clerk can carry great weight.

○ **Oral arguments are heard** in the case, but can they be much more than ceremonial if the justices have already reviewed the "calendar memorandum?"

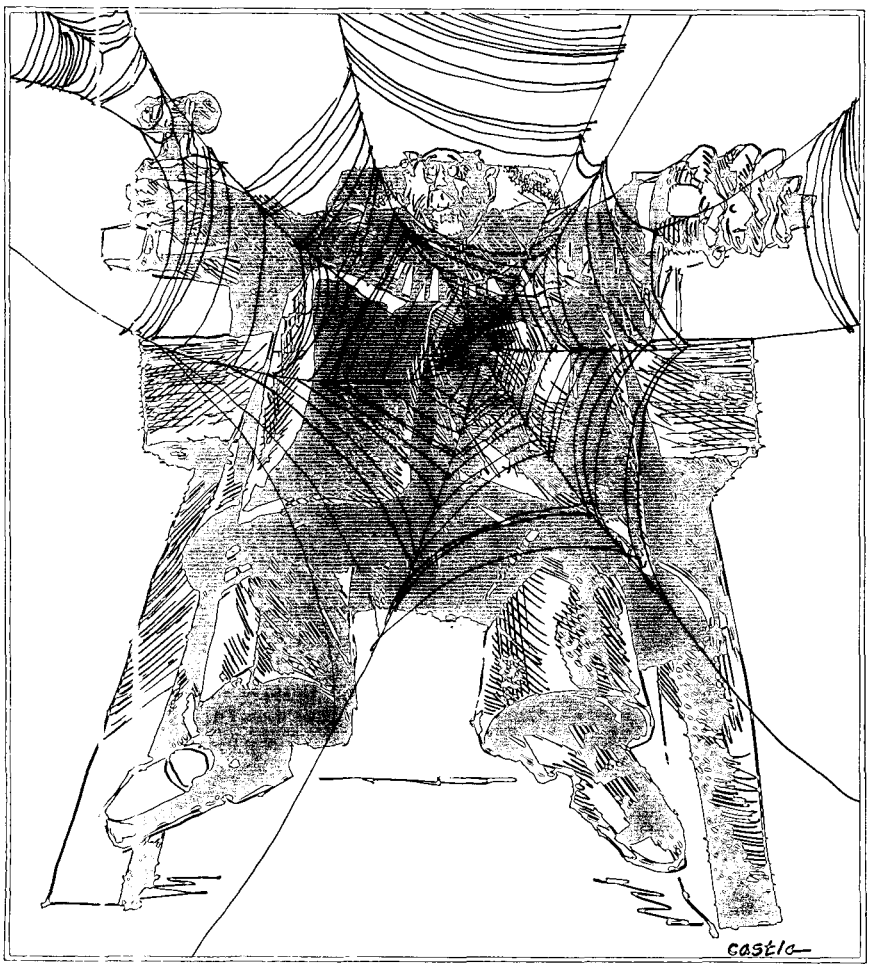
○ **The justices confer to vote.** Johnson claims that in most cases the author of the memorandum becomes the author of the majority opinion and the reasoning of the opinion follows the reasoning of the memo.

Staff power

The article concludes that "as the importance of advocacy by counsel has declined, the importance of the court's professional staff has increased." The California procedure contrasts significantly with that of the United States Supreme Court, in which each justice gives independent attention to each case. In addition, clerks come and go every year and thus cannot possibly exert the kind of influence wielded by the staff that was developed by Kleps.

The Johnson article is important because it had a heavy impact on Bird, and she is determined to change the court's procedures so that staffers will no longer be calling the shots for the justices. Step one was the replacement of Kleps with Gampell. Step two may be a decentralization of staff lawyers among the justices both in the high court and the larger courts of appeal.

The new chief administrator Ralph Gampell is a doctor and lawyer, but he'll never get to be the Indian chief while he's working for Rose Bird.



for establishing a special agency to set their wages.

The 12-year plan is consistent with the logic behind the existing constitutional provision requiring all appellate judges, including the high court justices, to run unopposed every 12 years. The reason for the judicial election was clearly to provide a process to get rid of the bad justices, but it hasn't worked that way. No Supreme Court justice has ever been voted out of office. Justice Marshall F. McComb, 83, who was forced to retire because of senility on May 2, was reelected by an overwhelming referendum 11 years ago. Nearly four million Californians cast "yes" votes to keep him in office, while a scant 989,988 cast "no" votes. Justice McComb cited that election whenever critics wondered why he hadn't stepped down, despite the investigation into his fitness by the Commission on Judicial Performance.

Under Gnaizda's plan, the justices would receive full pensions immediately after their retirement, regardless of their age. At the same time they would be barred from accepting employment, other than teaching or writing, for the first two years after leaving the bench. In the abstract, the idea of unlimited tenure may not seem threatening. But the fact is that the state's highest court has had its share

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of mediocre justices — many of them strictly political appointments.

Only once in state history has the Commission on Judicial Appointments rejected a governor's nominee. That was in 1940, when it voted against Governor Culbert L. Olson's choice of Max Radin. Radin, a nationally acclaimed law professor at the University of California, was rejected because of his allegedly left-leaning economic and political views. Yet twice in recent memory the commission (consisting of the chief justice, attorney general and the senior justice of the Courts of Appeal) has approved by a 2-1 vote nominees whose judicial qualifications were in question.

The current difficulty

The case of Justice McComb suggests the difficulty of removing an incompetent justice. It took nearly two years, a constitutional amendment (Proposition 7 on the November 1976 ballot), 652 pages of testimony gathered by the Commission on Judicial Performance and about $23,000 in taxpayers' money to force McComb from the bench.

Lawyers' reaction to Gnaizda's plan has been split. Understandably, judges generally oppose it. Former Chief Justice Donald R. Wright suggests that a better way to deal with potential judicial abuse would be to make retirement at age 70 mandatory for all judges. He thinks the 12-year plan would discourage qualified people from serving on the high bench, and he takes issue with Gnaizda's characterization of the judiciary as a "constitutional monarchy."

"I suppose the judiciary could be considered strong, but its decisions can be overturned by the Legislature," Wright says. "The judiciary is not the ultimate arbiter. The people are."

The strongest argument against the Gnaizda proposal is that it is arbitrary: It would throw everybody out, the able with the incompetent. "It's foolish to throw out the good judges," says Jack E. Frankel, executive officer of the Commission on Judicial Performance. Gnaizda's contention is that the public is better served by losing a few good judges than retaining mediocre ones.

One possible compromise would be to combine the 12-year plan with other checks. For instance, the membership of the Commission on Judicial Appointments could be enlarged to make it more representative — perhaps by adding three members from the state Bar and several public members. Another possibility would be to increase the authority of the Commission on Judicial Performance, to make it less difficult to punish incompetent and disabled justices. Still another alternative would be to combine the 12-year concept with a provision that justices who want to serve beyond that limit would have to receive a vote of confidence from the Commission on Judicial Appointments or a positive review from the Commission on Judicial Performance.

It's too early to tell if the Legislature, and Californians as a whole, share Gnaizda's concern about what he calls the "constitutional monarchs" on the state Supreme Court. But with a 40-year-old chief justice at its head — one who could conceivably remain on the bench 40 more years — he's got a classic example of potential longevity to point to.

California *CAPSULES*

Lobbying tab: $40 million over two years The Fair Political Practices Commission issued a report indicating that lobbyists and their employers spent over $40 million trying to influence state government during 1975 and 1976.

The top five spenders: California Medical Association, $1.35 million; Pacific Telephone and Telegraph, $1.3 million; San Diego Gas and Electric, $892,000; Gun Owners of California Campaign Committee, $781,000; Standard Oil of California, $674,000.

Breakdown by category: business, $15 million or 37%; insurance and financial institutions, $2.9 million or 7%; labor and public-employee organizations, $3.7 million or 9%; agriculture, $1 million or 3%; utilities, $4.5 million or 11%; health organizations, $3.8 million or 10%; legal, $950,000 or 2%; education, $1.8 million or 4%; government, $4.3 million or 11%; miscellaneous, $2.2 million or 5%.

Top lobbyists (salary and expenses): James D. Garibaldi (liquor, horse racing, oil, others), $443,000; Joseph F. Mahoney (utilities, tobacco, others), $335,000; Donald Kent Brown (oil, chemicals, drugs, others), $310,000; Albert J. Shults (major oils), $282,000; Kenneth A. Ross Jr. (horse racing, cement, others), $263,000; Ethan J. Wagner (numerous clients), $259,000; Robert J. Beckus and Loren V. Smith (dairy, car dealers, government agencies, others), $255,000 each; Daniel J. Creedon (brewers, morticians, others), $252,000; Jack Crose (City of Long Beach, mortgage bankers, others), $244,000.

State to pay for abortions under Medi-Cal Women will be able to obtain abortions under the state's Medi-Cal program, despite a cutoff of federal funds for the purpose. Governor Brown indicated that the state cannot cut off any Medi-Cal services without giving 10 days of advance notice, and there are no plans to issue such a notice. There have been estimates that the cost to the state will be more than $20 million. Brown said he is hopeful that Congress will restore abortion funds. "I think if abortion is wrong, it should be wrong for everyone," he declared. About half the 140,000 abortions performed in California last year came under the Medi-Cal program, and federal funds were used in about 55 percent of the cases.

Wilson launches drive to fire public strikers Mayor Pete Wilson of San Diego, a candidate for the Republican nomination for governor, launched a signature-gathering drive designed to prohibit public employees from striking. Wilson and other sponsors must collect 499,846 valid signatures of registered voters by December 2nd to qualify the measure for next June's ballot. The initiative would require that any striking public employee be fired. Public bodies also would be prevented from increasing their wages-and-benefits offer after a strike has begun.

Counsel Gregory claims Brown acted illegally Legislative Counsel Bion Gregory issued an opinion claiming that Governor Brown acted unconstitutionally on June 30th when he vetoed a section of the state budget restricting audits of political campaigns.

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How Barbagelata lost his heart in San Francisco

By JERRY BURNS

San Francisco's most bizarre election in many years now is history, but the effects are yet to be felt in the city whose political conditions are sometimes as shaky as its geological underpinnings. All that can be stated for certain, as a direct outgrowth of the city's August 2nd special election, is that the mayor will be allowed to serve out his full term and that members of the Board of Supervisors will be elected by the voters of eleven newly-created districts for the first time this century.

For George Moscone, the election was the end of a midsummer's nightmare. The handsome and cool former majority leader in the state Senate, who gave up security in Sacramento for the questionable honor of mayoring a problem-ridden big city, survived what was, in essence, an effort to force him from office after serving less than two of the four years he won in 1975. Although he survived the test in easy fashion (after the vote Moscone told reporters, "I just finished my mid-term exams and I got pretty good grades"), the fact that the initiative challenge qualified easily for the ballot and that 62,185 citizens voted for the proposal did not exactly constitute a ringing vote of confidence.

Elected by just two percentage points over an ultra-conservative real estate broker and supervisor, John Barbagelata, Moscone took office in January 1976 with no clear mandate and a quite clear need to broaden his base of support in the community. Instead, he seemed hell bent to go in the opposite direction. Although it was obvious from the 1975 election results that Moscone had few friends among the white, middle-class homeowners in the city's neighborhoods on the ocean side of Twin Peaks, the 900-foot hills that divide the city at its mid-point, he did nothing to win over those distrustful citizens who appeared to believe Barbagelata's campaign theme that Moscone was little more than a tool of the Phil Burton-Willie Brown political machine, a machine which runs on the votes of the liberals and the emerging minorities. Looking for new members of the city's key commissions, Moscone found most of them from among the liberal Democrats who supported him faithfully in every election. Little attention was paid to the old-line, moderate Democrats who live in the Sunset and Richmond districts. Even his loyal supporters among the minority groups were not happy as Moscone filled his inner staff with old friends from Sacramento (including Bernard Teitlebaum and Rudy Nothenberg, who became known as Moscone's Haldeman and Ehrlichman, as deputy mayor and chief troubleshooter, respectively) and with new black and brown faces from other parts of the state and nation. Moscone's first 18 months in office were highlighted by two warring camps in his office (as staff lined up either on Teitlebaum's side or Nothenberg's), unrest in the minority communities and distrust in the west. The liberal mayor's relations with black leaders, traditionally among his strongest supporters, became so strained that he called 50 of them into a secret meeting at which he promised to pay more attention to qualified local people when filling the few patronage jobs at his command.

Reform of yesterday

As Moscone was sloshing his way through his winter of the public's discontent, another political movement was taking shape. It was the proposal that the city's 11-member Board of Supervisors be elected from 11 separate districts rather than by the city at large. San Francisco had experimented with district elections before, but had given it up. Prior to 1900, the supervisors (who do double duty as city council members and county supervisors in the only combined city-county in California) had been elected from wards and supposedly dealt in patronage peddling, vote swapping, contract fraud and all-around municipal corruption. However, a reform mood swept through San Francisco at the turn of the century and it swept out the district system for electing supervisors. In its place came the at-large

Jerry Burns is a political writer for the San Francisco Chronicle.

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system, then considered a bold stroke for reform and good government.

As often happens, the radical reform of one era becomes the hated establishment system of another period. Beginning in the late 1960s, a movement began to grow in San Francisco in favor of district elections. The new reformers first took their pleas to the incumbent Board of Supervisors, who hemmed and hawed and finally put a non-binding choice of system before the voters in 1972. A majority voted for various alternatives to the existing at-large system, but it won the single largest number of votes. The supervisors thought the question was settled and went on to other matters. Not so. The supporters of the district elections came back again in 1973 with another district proposal. This time, they by-passed the supervisors and took their case straight to the people through the initiative process. The issue was clear cut — district elections, yes or no — and the voters turned it down by a two-to-one margin. Labor, then still enamored of incumbents, was opposed, as was big business. Support seemed limited to a handful of liberals, some neighborhood activitists and district-election ideologues. Again the supporters retreated to lick their wounds. By 1976, they were ready to try again. In the interim, the core supporters of district elections had recruited, slowly and effectively, backing among minority groups, neighborhood associations and others easily convinced that they were not represented at City Hall under the existing system and would be well represented in a district system. Also, labor had soured on the incumbent supervisors after a long and bitter strike by city workers, and much of the public had soured on city government in general for allowing policemen and firemen to strike. The combination of grass-roots neighborhood and minority strength, along with the money and manpower of labor, finally pushed district election of supervisors over the top in November, 1976. A two-to-one defeat in 1973 had been turned into an 11,000-vote victory in 1976. By a ratio of 52.4 percent to 47.6 percent, San Francisco's voters said they wanted to try district elections beginning in November, 1977.

One-term mayor?

This was the political situation as 1977 dawned: George Moscone, finishing the first year of his term, seemed on shaky ground and was widely considered in political circles to be a one-term mayor. District election of supervisors, approved on its third trip before the voters, was scheduled to go into effect before year's end. But nothing is certain in San Francisco politics, where conditions can change as quickly as the weather. Even before the ink had dried on the 1976 election results, a group was being formed to challenge the district-election system before it had an opportunity to go into effect. Showing an incredible amount of political naivete, opponents of district elections held their first organizing meeting at the home of a Chamber of Commerce staff member. That immediately led to howls that the challenge effort was a move by big business to wrest control of city government from "the people" before the district-election system was given a chance. As if to prove the point even more vividly, another Chamber of Commerce staff member wrote in the Chamber's own publication, *San Francisco Business*, "Most business leaders, unfortunately, don't reside in San Francisco and must, therefore, rely upon their persuasive powers and their money to influence the course of local politics."

It was an incredible blunder, a hanging curve ball for the pro-district election people to hammer over the fence time and again during the campaign. Before they did, however, the anti-district people, a small group of housewives and neighborhood businessmen financed by contributions from

major downtown businesses, managed to take the district-election issue to the voters once again — for the fourth time in five years — by qualifying an initiative which would simply restore the at-large system.

Sensing an opportunity to get some of his own ideas before the public, supervisor John Barbagelata, Moscone's defeated opponent from the 1975 mayor's race, took to the streets with his own initiative proposal. With little apparent trouble, perhaps as evidence of Moscone's vulnerability, he also qualified an initiative for an unusual, mid-summer, special election. The cost, in excess of $400,000, was often cited by opponents of the two measures as evidence of the insensitivity of Barbagelata and the at-large election group to the added burden on the public treasury.

The special-election ballot had just two measures: Proposition A, a straight repeal of district election of supervisors, and Proposition B, which was much more complicated. It proposed that the four-year terms of Moscone, controversial Sheriff Richard Hongisto and District Attorney Joseph Freitas be cut in half and that new elections for those offices be held in November. The proposal had much more. It proposed the city's chief administrative officer, former Democratic state chairman Roger Boas, be dumped from office. Boas had been appointed to the nominally non-political lifetime job by Moscone. Barbagelata's proposition proposed that future CAO's be limited to six-year terms. It also had its own plans for electing supervisors. Keep the new eleven districts, said Proposition B, and require the supervisors to live in separate districts, but let each of them be elected by all the voters. The measure also would have ended the terms of members of most of the city's key commissions abruptly in January. Not surprisingly, the commissions he included were almost exclusively those populated by Moscone appointees.

Here comes Santa Claus

Moscone said Proposition B reminded him of "Christmas-tree legislation" he had seen in Sacramento, with "a little present for everyone." As it turned out, the glittering array of baubles may have been Proposition B's fatal flaw. In an effort to right every wrong he perceived, or to offer something to everyone, Barbagelata succeeded in confusing many voters. One veteran campaigner said afterward that Barbagelata "put too much in the package, when he might have been able to pull off a straight recall of Moscone."

The campaign was odd in many ways. Barbagelata took to the stump only briefly, then retreated and left it for others to carry on the frontal campaign. Barbagelata was the object of a vicious personal attack by radical groups even before the campaign (they circulated leaflets calling him "the

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derange l buzzard," threatened his family, attacked his real-estate office windows with rocks and sent him a candy-box bomb). He said he had decided to avoid public debates because audiences were stacked against him and his presence produced debates on personal issues, not on the merits of his proposition. Moscone, who seemed listless in the 1975 mayoral campaign and disinterested once in office, leaped into the campaign with great enthusiasm.

Moscone had the full weight of the Democratic county machine in San Francisco and all of the city's big campaign contributors. Nearly all the labor unions were with Moscone, except for the Police Officers Association and the Plumbers Union. Pre-election campaign financial statements showed that friends of Moscone, from all over California, were out-contributing friends of Barbagelata by a ratio of about five-to-one. Nearly $150,000 was ponied up for the No-on-B campaign, which paid for television commercials and thousands of pieces of literature. Barbagelata had trouble scraping up enough money for posters.

Candidates and Catholics

On the Proposition A side of the campaign ledger, there was almost no organizational support, from labor unions or other groups, for repeal of district elections. The other side was also shy on money but heavy with volunteers to ring doorbells and hand out literature. The No-on-A people ran a No-on-A-and-B campaign on the grounds that both measures proposed to change their cherished district election plan. They had support from most of the unions (particularly city employee groups still holding a grudge over the supervisors' hard stance during the last strike), neighborhood groups, minorities and others. An unexpected resource came in the form of the more than 100 persons who had already signed up to run for district supervisors and thus had a vested interest in protecting the principle. Even the Catholic Church got into the act. An editorial published in the *Catholic Monitor* in the spring was frequently used in the campaign. Taking up the question of whether it was fair to attempt to overturn district elections, without trying them; the *Monitor* got into secular politics by observing: "We suppose there might be moral issues here, for is there any justice in trying to nullify the majority vote of the people before Proposition T (the 1976 ballot designation for the district election plan) has been given a chance to work or not work? . . . When is the majority decision of the people expected to count? Do we play Double or Quits, or Best out of Five? If such trends are encouraged, city government will end up in chaos."

Evidently the voters agreed, because 57 percent of them voted against Proposition A — five percent more than the plan had received in 1976, when it was at the bottom of a long presidential election ballot. Barbagelata's Proposition B did even worse, with 64 percent of the public voting against it. Post-election analysis showed that Proposition A was defeated in every part of the city, except for three wealthy enclaves. Proposition B carried only one of them.

Winners and losers

The results seemed to lay to rest the campaign rhetoric of some idealogues, picked up by some reporters, that the election was a cataclysmic showdown between the city's haves and have-nots, the last gasp by the old ruling white Italians and Irish to keep power from the emerging minorities. Moscone, who scoffed at the idea, noted that he was white, middle class and Italian. The Burton brothers, Phil and John, who opposed both propositions, are white and Irish. So is Assembly Speaker Leo McCarthy, who supported A and opposed B. Moscone also noted that the propositions were voted down in most white, middle-class neighborhoods.

Who won in the election? Moscone certainly picked up momentum he could use to be a more effective mayor. The district-election principle was upheld and will be tried, at least until the new supervisors do something to get the public and the special interests mad at them. It was also a victory for Willie Brown, the Burtons and Assemblyman Art Agnos, who backed the winning sides on both propositions and will undoubtedly play a major role in the political restructuring of the city. It was a victory for big labor, which had been considered politically impotent since the last strike by city workers. It was hardly a victory for either of San Francisco's state Senators, Milton Marks and John Foran. Marks, the Republican, reportedly endorsed Proposition B in one forum, opposed it in another and promptly left town until after the election. Foran, the Democrat, got out of town without saying a word.

Did the election mark a victory for radicalism, as envisioned by Barbagelata during the campaign? It's too soon to say whether San Francisco will become another Berkeley, as he warned, but it is highly unlikely that Moscone would participate in such a transformation or that the new districts will send a straight radical ticket to City Hall. Two events occurred within a few days of the election that would suggest that Barbagelata's fears were premature, to say the least. On the day after the election, Jim Jones, controversial pastor of People's Temple and a political supporter of Moscone, resigned as chariman of the city's Housing Authority after being criticized in a *New West* article. Early the next day, sheriff's deputies rousted the tenants from the International Hotel, a seedy Chinatown flophouse that was a radical symbol because its aged Chinese and Filipino tenants didn't want to be forced out by an absentee landlord anxious to build something else. Neither the Jones resignation nor the hotel eviction were signs of a radical takeover.

For the Board of Supervisors, the defeat of A and B means that all eleven seats will be up for grabs this November. Will the voters send eleven radicals to City Hall? Not likely. Already it looks like at least six of the incumbents will run for re-election, from districts, and they all will have distinct advantages over their lesser-known opponents. As for the newcomers, it is more likely that moderate to liberal candiates will win in the new districts. The new system is undoubtedly going to change campaign styles in San Francisco, where door-to-door district campaigning will replace expensive citywide television campaigning. It will also reduce the income of professional campaign managers, who aren't likely to be needed, or affordable, under the district system. It's all going to be confusing for a while, but that's San Francisco politics.

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Dymally and Cory — the prime GOP targets

By Ed Salzman

We may have two statewide Democratic campaigns in California next year. One will orbit around Jerry (Spaceman) Brown and his quest for reelection. The other will be a loosely coordinated effort on behalf of the other Democratic candidates headed by Lieutenant Governor Mervyn Dymally.

The fact that Brown has gone bonkers for space exploration has nothing to do with the likelihood that the Democrats will fail to mount a unified campaign in 1978. (Brown's interest in space stations and the like happens to be good politics — a safe issue and an indication that Brown is doing something to find jobs for those who lost out in Jimmy Carter's scuttling of the B1 bomber program.) Brown just happens to be a political loner who has shown practically no interest in the political survival or ascent of other Democrats, although he did help raise money last year to assure that he would not face a hostile Republican Legislature. Dymally, State Controller Ken Cory, State Treasurer Jesse Unruh and Secretary of State March Fong Eu expect little or no help from the popular Governor — and that's probably what they'll get.

Despite months of speculation that Dymally won't run, he'll be back in the ring like the old political gut-fighter that he is. Some months ago, he was depressed and frustrated because reporters seemed to be questioning him almost every day about rumors that he would be indicted for alleged mishandling of funds obtained for the non-profit Urban Affairs Institute, which he headed. The air — and Dymally's head — cleared when Attorney General Evelle J. Younger announced that he had concluded an investigation and that no charges would be filed against the lieutenant governor. Dymally admits there was some sloppy bookkeeping in the Urban Affairs Institute, which conducted an internship program for minority students seeking careers in government. He is now circulating copies of a report praising the Institute and listing its graduates, including Assemblyman Richard Alatorre and Colorado state Senator Regis Groff. Dymally's problems stemmed mostly from a *Los Angeles Times* article suggesting wrongdoing on his part. Dymally considers the article "overkill" and does not think the *Times* will take to the attack again.

The odd couple

Nevertheless, the lieutenant governor is convinced that the Republicans will concentrate their efforts on defeating him and Cory. Eu is apparently so secure that there hasn't even been a mention of an opponent for her. Unruh has a job that is not often sought by heavyweights, and there aren't many incumbent legislators willing to risk their careers to tackle him.

Brown and Dymally are the odd couple of California politics. They come from dramatically different backgrounds, speak different political tongues, have different groups of friends, are interested in different issues, have totally different lifestyles and have different political goals. (Dymally, born in the West Indies, is ineligible to be president.) Is it any wonder that there has been hardly any direct communication between the Governor and his stand-in? Dymally even talks in terms of "war" and "peace" in describing how he feels about Brown. "It isn't necessary for us to have a social relationship," he emphasized. "I want a working relationship."

The lieutenant governor feels he will be the prime Republican target next year if Brown's popularity holds and the GOP nominates entertainment impresario Mike Curb to face Dymally. The Republican scenario, according to Dymally, is to have 32-year-old Curb attack Brown for four years and then run for Governor or United States Senator in 1982. All this is based on the assumption that Dymally, weakened by a lack of support by Brown and the two-year-old *Los Angeles Times* article, will be fighting without adequate armor.

Dymally will be no pushover. He has his incumbency, and he has been working hard to become a friend of the California business community. (He has developed a scorecard showing that he, unlike Brown, has been with labor and industry with every major issue since he took office.) He figures to have the backing of teachers, government employees and minorities. Even his red-hot feud with Mayor Tom Bradley of Los Angeles apparently has been neutralized. Bradley credited Dymally with helping him win reelection and the lieutenant governor doesn't expect any trouble next year from the mayor, whom he likes personally. Dymally's weak spot is among white liberals, but will they support a conservative Republican like Curb or Assemblyman Mike Antonovich?

Perhaps the biggest asset that Dymally, Cory and company have is the weakness of the Republican Party. The GOP has been reduced to pitiful minorities in both houses of the Legislature and holds only two major offices, attorney general and one of the two United States Senate seats. The GOP will need a unified and well-financed effort next year to make major gains. Although the Republican prospects do not look especially good, Dymally refuses to take the GOP lightly. "They are the greatest comeback fighters of all time," he said.

While major fights may be in the offing over the nominations for governor and attorney general, it appears that GOP candidates for some statewide offices may have clear sailing. Here is a rundown of the races for constitutional office:

- **Lieutenant Governor.** Dymally does not figure to have major opposition in the Democratic primary. Curb, a Republican national committeeman, has locked up most of

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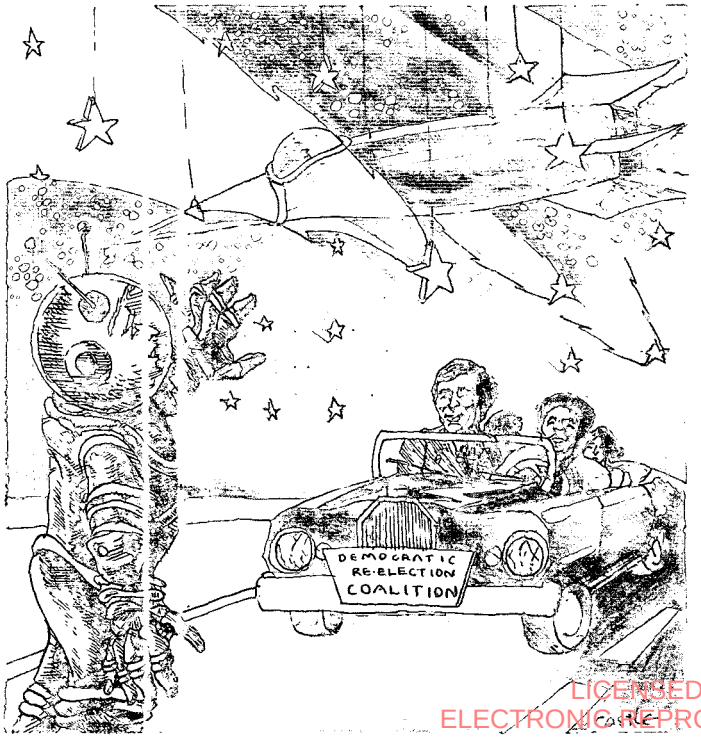
the important GOP endorsements and figures to have almost unlimited funds. He is being viewed by some members of Ronald Reagan's so-called kitchen cabinet as the successor to Reagan in California Republican politics. Assemblyman Antonovich, a conservative who was an issue ideologue in the Reagan-for-President campaign, has already started soliciting help for his campaign for lieutenant governor. But Antonovich may decide that the Curb juggernaut is rolling too mightily and choose to run for reelection or another statewide office. Curb poses a greater threat to Dymally because he can position himself almost anywhere on the political spectrum, while Antonovich is isolated on the far right.

○ **Controller.** But for two little words — Cella and O'Neill — Democratic incumbent Cory would probably be sitting pretty with a cinch reelection and the prospect of running for governor in 1982. But Cory accepted roughly $500,000 in campaign contributions from Richard O'Neill and Dr. Louis Cella three years ago. He managed to win despite the howl about those contributions, but Cella was subsequently convicted of offenses involving complex financial-political dealings in Orange County. Will that be forgotten by November of 1978? If not, Cory could face a very difficult reelection campaign. His probable opponent: Assemblyman Dixon Arnett of Redwood City, an articulate moderate who abandoned a race for lieutenant governor after assessing the Curb candidacy. But Cory is one of the state's smartest campaign strategists. His slogan of 1974 — "the man the oil companies fear most" — effectively countered the Cella-O'Neill attacks. He will need another clever gimmick or two next year to win by a large enough margin to keep his career on the ascent.

○ **Treasurer.** The incumbent, Jesse Unruh, has done nothing in office that should make him the slightest bit vulnerable. In fact, the job is not nearly taxing enough for the former Assembly speaker's considerable energy and talent. If he has a reelection problem, it stems primarily from publicity over $10,000 he received from Dr. Cella. Technically, Unruh received the $10,000 in exchange for some old furniture, according to court testimony, and thus was not a reportable campaign contribution. Attorney General Evelle J. Younger investigated and decided there were no grounds for action against the treasurer. Who will run against him? For a while, it appeared that Assemblyman Paul Bannai of Gardena would take a fling. But Bannai seems to have lost interest, and Assemblyman Robert Cline of Los Angeles (who had previously been talking about running for governor and controller) may risk the race.



○ **Secretary of State.** March Fong Eu looks like such a cinch for reelection that there are not yet any major prospective opponents on the horizon. She might even be able to run again with the same pay-toilet campaign she used effectively in 1974, carrying every county except San Diego.

○ **Attorney General.** With the Republican incumbent, Evelle Younger, running for governor, this office probably will provide more attention than any other except governor during the primary campaign. At present, the Republican field looks fairly narrow — the two candidates are state Senator George Deukmejian of Long Beach, author of legislation restoring the death penalty, and James Browning of San Francisco, the United States Attorney who prosecuted Patricia Hearst. A Dorothy Corey poll showed Browning a hair ahead in what is essentially a name-identification survey at this point.

The Democratic field could be unusually large. It appears that Assembly Speaker Leo T. McCarthy will not enter the contest, but beyond that anything could happen. A few months ago, City Attorney Burt Pines of Los Angeles, fresh from a smashing reelection victory, looked like an odds-on favorite. But he was victimized by a scandal involving the shredding of police files, and suddenly the door opened to others. Among those who may cross the threshold: Superior Judge Bruce Sumner of Orange County, a former Republican Assemblyman who headed the state's Constitutional Revision Commission; Congresswoman Yvonne Brathwaite Burke, who seems desperate to run for a statewide office — any office; District Attorney Joseph Freitas of San Francisco, who was one of the winners in the August 2nd special election in his city; Assemblyman Alister McAlister of San Jose, a moderate who co-sponsored the death-penalty bill with Deukmejian; Chairman Bill Bennett of the State Board of Equalization, an energetic consumer champion who would jump into the race if he thought he could win; and John Van de Kamp, the Los Angeles County district attorney. Van de Kamp would be the early favorite if he ran, but he remained quiet while he was being considered by President Carter for the directorship of the Federal Bureau of Investigation. A Van de Kamp entry would be especially harmful to Pines, who has already obtained the support of former Democratic state Chairman Charles Manatt and has signed with the Winner-Wagner campaign-management firm.

○ **Superintendent of Public Instruction.** Incumbent Wilson Riles probably can have another four years in this non-partisan office for the asking. But there have been rumors Riles might take a federal post, if offered. Should Riles depart, there would undoubtedly be a free-for-all for the job.

○ **Board of Equalization.** Assuming Bennett seeks reelection, the most interesting race will probably be in the second district, where the incumbent, Iris Sankey of San Diego County, was appointed by Governor Brown following the death of John Lynch of Fresno. Her probable primary opponent: John Lynch Jr., son of Sankey's predecessor.

Countdown to March 10th

It may appear that this sort of speculation is almost meaningless fully 14 months before the 1978 general election. But there is no longer a rest period between political seasons. Jimmy Carter proved the value of early tilling of the political peanut patch. In fact, the filing period starts in January, and only six months from now, on March 10th, the complete list of 1978 candidates will be known.

Perhaps the secretary of state's office should print two lists — one for the Spaceman and the other for the Earthlings.

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The paper tiger finally growls

By Robert Feinbaum

Seven years ago, the Consumer Affairs Act of 1970 created a new Department of Consumer Affairs for California. On paper, the department was to be one of the strongest consumer protection agencies in the country. But in fact, during its first years, the department was a paper tiger: underfunded, ineffective and unresponsive to consumer complaints.

The San Francisco-based organization called Consumer Action took a close look at the department in 1974 and charged that its activities in the field were "a sham." Its licensing boards were operating as "independent fiefdoms" beholden to the groups supposedly being regulated, and its consumer education program was little more than a "public relations gimmick," Consumer Action reported. It also said the department neglected its advertising substantiation responsibility, gave short shrift to consumer complaints, rarely appeared before the Legislature on bills of interest to consumers, and refused to "intervene in judicial or administrative proceedings on behalf of the consumer." For the last two years of the Reagan Administration, consumer groups "found the department so ineffective that they just didn't deal with it," according to Roy Alper, director of the California Citizens Action Group (CAL-CAG).

Coming alive

All that changed when the Brown Administration took office. First under Taketsugu Takai, and more recently under Richard Spohn, the department has come alive. The budget of the Division of Consumer Services increased dramatically, from $460,000 in the last Reagan year to nearly $1.3 million during last year. The number of employees nearly doubled. The department completely revamped its complaint unit in order to give consumers quicker responses. A regular ad substantiation program was launched. A research unit was started to review legislation, provide background for various departmental activities and consider some of the long-range policy issues facing consumers. And the department began to take its consumer representation function seriously. It hired attorneys to appear before administrative bodies on behalf of the consumer and to file consumer interest suits in the courts. The department expanded its public information program. Last year it published *The Compleat California Consumer Catalogue* to provide information on topics ranging from buying a used car to arranging for a funeral to choosing a vocational school. The book sold out its first printing, and is now into a second printing of 50,000 copies.

Although consumer groups are generally pleased with the direction the Department of Consumer Affairs is taking these days, they still have some criticism. Alper believes "Spohn knows where to take the department" but isn't getting there quickly enough. "It hasn't performed the leadership role to obtain public funds for intervention in administrative proceedings," he says. And in Alper's view, the department has not consulted adequately with consumer groups about priorities and budget. Jo Ann Clayton, director of San Francisco Consumer Action, recognizes the quiet work the department is doing but wishes that it would cooperate more closely with local consumer groups.

Actually the Department of Consumer Affairs has two main responsibilities. One is consumer protection. The other is licensing. The department regulates almost 40 different occupations, from auto mechanics to landscape architects, speech pathologists to professional engineers. Standards for each of the occupations are set by semi-autonomous boards or bureaus funded by license fees from practitioners. In the past, those boards have been largely responsive to the occupational groups they were supposed to be regulating. Yet, the activities of the people licensed by the Department of Consumer Affairs touch the lives of consumers more often than the activities of nearly any other branch of state government.

Among others, Jo Ann Clayton of Consumer Action has criticized the ways the boards and bureaus handle their business. She feels they take disciplinary action against too few errant practitioners and provide no restitution to consumers for misdeeds of licensees. Gaining relief in court is difficult for consumers, she says, because attorneys' fees are often prohibitive and, in many cases, practitioners won't testify against each other.

Joining the boards

But consumers may soon be having more of a say about licensing regulations. Despite intense opposition from the affected trade groups and professional associations, a bill authored by Senator Arlen Gregorio narrowly squeaked through the Legislature during the last session. Under SB 2116, as of January 1st public members were to comprise at least one-third of the accountancy and healing arts boards, three-tenths of the pharmacy board and a majority of the other boards. Said Governor Jerry Brown when he signed the bill into law: "This may be the most far-reaching consumer protection bill in the United States."

With public members on the boards, licensing may well serve the consumers' interests better than it has in the past. Yet, consumer advocates like Clayton warn of possible dangers ahead. "Public members need support from staff and subsidies so that they can undertake their responsibilities and not eventually be co-opted by the industry they are supposed to regulate," she says. She suggests training programs for public members and stipends so that they, like the industry representatives, can devote the necessary time to their work.

The public-member law and the department's consumer-protection program are still gaining momentum. But one thing is clear: The Department of Consumer Affairs is no longer the paper tiger criticized by the San Francisco Consumer Action study team three years ago. It is moving toward a significant place in California's consumer movement.

Robert Feinbaum, a Berkeley social scientist, is a frequent contributor to the Journal.

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The public-member siege of the state licensing boards

By Carolyn Street

The undertakers of California lost their traditional cool in June of 1976 when Governor Brown appointed Robert Treuhaft as a public member of the state Board of Funeral Directors and Embalmers. Treuhaft is the husband of Jessica Mitford, author of *The American Way of Death*, a blistering indictment of the funeral industry. He was also a co-founder of the Bay Area Memorial Society, an organization aimed at finding alternatives to traditional funerals.

For several months Treuhaft asked pointed questions and drew conclusions that infuriated the board. He asked those seeking embalming licenses if they routinely embalmed without seeking the consent of the next of kin or the will of the deceased, which they didn't. He accused the board of condoning other practices of questionable legality, but he never could get a second for his motions. The two other public members voted, as a rule, with the industry representatives.

Before Brown took office, the two or three public members on each board within the Department of Consumer Affairs never seriously challenged the original purpose of the licensing system — self-policing of each professional industry by hand-picked representatives of each industry. In addition to the 33 boards, there are also five advisory panels to department bureaus that police collection agencies, electronic and automotive repair services, employment agencies, and home-furnishings. Licensees refer to board budgets as "our money" since they are supported by license fees, not general tax funds, and are fairly autonomous in policy matters.

The 1976 public-members bill, authored by Senator Arlen Gregorio, changed all that starting in February of this year. It required that public members outnumber industry members on most of the 38 boards. As the terms of Ronald Reagan-appointees gradually expire, Brown is changing the complexion of the boards, which range from 5 to 15 in membership.

The funeral board was one of the first to have a majority of public members. Treuhaft's motions now are seconded by Sam Johnson, an auditor with the state Department of Education, and Phillip Neumark, a lawyer who testified on behalf of San Francisco Consumer Action at a Federal Trade Commission hearing on funerals. The funeral directors were almost relieved by Neumark's appointment because he does not buy Treuhaft's theories that funeral directors misrepresent their products, that the board has served to legitimize illegal practices, and that the criminal justice system might do a better job than the industry enforcing the laws governing morticians. Neumark merely accused the industry of profiting from publicly held misconceptions — that bodies can be preserved for longer than a few weeks. Johnson and Neumark think Treuhaft is too harsh in dealing with an industry governed by tradition and emotionalism. Furthermore, the other two public members of the eight-member board don't even second Treuhaft's motions.

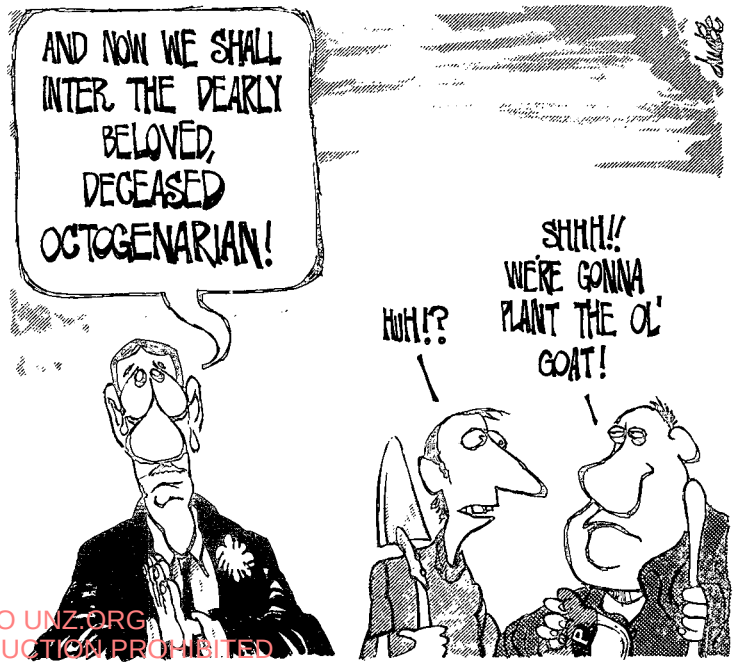
Carolyn Street prepared this article as a Journal *intern from the University of California at Santa Cruz.*

'Questioning everything'

At an orientation session for all the new public members, the Governor told them to "question everything" the boards did. On most of the boards, the new public members are asking such tough questions as "How does this protect the public health and safety?" and "Who cares?"

The funeral board's staff, headed by three embalmers, currently inspects embalming rooms to make sure they are almost as sanitary as hospitals. (There has been only one violation in the history of the board.) The tough question here is "Who is the state protecting?" It only protects the embalmer in his embalming room. Brown and Consumer Affairs Director Richard Spohn says that government boards should protect the health and safety of the public. If embalmers want to form a self-protection club, they say, the state need not be involved.

Although Treuhaft, Neumark, and Johnson lose all the votes, the funeral board meetings now deal with public issues. The minority members hauled the manufacturers of sealer caskets on the carpet for their advertisements claiming the devices "protect" the "remains" from air, water, and dirt, which they do. "A casket with a gasket," Treuhaft called it. "They are advertised in front of pyramids . . .



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when they admit you get a puddle in there within weeks. This casket comes with a 50 year warranty. If you dig it up and find any air, water, or dirt has gotten into your puddle, you don't get your money back, but they'll replace the casket."

Insult to industries

So much for the funeral directors and embalmers. What about the other 37 boards? Almost unanimously, the industry members resent the Governor's appointments, even if they like the new members personally. The public majority is viewed as an insult to the way the industries have regulated themselves. Secondly, the public members are treated as adversaries largely because many of the new appointees are from the consumer advocacy movement. Carlotta Mellon, the governor's appointments secretary, replied to an attack from Max Ferber, the chairman of the Collectors' Advisory Board: "We do not purposely appoint people with the intention of creating an adversary relationship. Our intention is to appoint individuals who can make a contribution to a . . . board . . . and deal fairly and effectively with the issues that come before that board." The collectors' outcry was prompted by Brown's appointment of two legal-aid attorneys to the board. One, Toby Rothchild, had so much experience defending the poor against collection agencies that he qualified as an expert witness on the subject in a court case.

One problem for public members is determining the public view on issues before the board. The public members cannot get all sides by listening objectively to hearing testimony because only industry interests are represented. Most complaints received by the boards are from their own licensees, and almost all complaints are filtered through staffs which are accustomed to serving the professionals on the boards. (Most boards conduct meetings, incidentally, under the assumption that everyone in the audience attended the last meeting, say in San Francisco, and will attend the next meeting, say in Palm Springs.) Unless one of the public members has expertise to argue against the industry position, no one else will.

Hal Levin, a new public member on the Board of Architectural Examiners, was chosen largely on the basis of his troubles with that board. Levin is a house designer and wanted to use techniques reserved by law for licensed architects. He had flunked the exam twice, and complained that the national examination used in California is based on a candidate's usefulness to a large competitive archtectural firm. It emphasized speed, not designing ability, he claims. Like most new public members, Levin is more sympathetic to candiates for licenses than professionals who already have their tickets.

If, as seems to be the case generally, the new public members are advocating broad, minimal standards of competence and ignoring professional standards of excellence, they are doing what the Department of Consumer Affairs wants them to do. The prevailing philosophy at the department is that the boards improperly had limited the number of people who can practice licensed trades in California. Deputy Director Michael Krisman cited the marriage and family counselors as an example. "They go to the Legislature saying 'You've got to regulate us, you've got to protect the public from all these quacks.' Then they grandfather in (license without an examination) all the quacks they complain about."

The Department of Consumer Affairs cannot directly control board policies or appoint board members, but it exerts great impact by recommending appointments to the Governor. The Board of Vocational Nurses was refusing to license applicants with criminal records. The department, through Brown, placed on the board an ex-convict affiliated with the Prisoners Union. On all the boards, the department recommended appointees who would tackle those issues the Consumer Affairs Department wanted tackled. In effect, the department tried to stack the deck, according to representatives of professions.

The campaign for public-member majorities was kicked off by San Francisco Consumer Action in 1974. A task force led by Michael Schulman produced a report entitled, *Deceptive Packaging*, named for the 1970 name change of the former Department of Vocational and Professional Standards to the Department of Consumer Affairs. In 1976 Brown supported the concept and it passed with some compromises. Only one-third of the healing arts boards and the Board of Accountancy are public members, for example. Schulman likes the Governor's appointments, but wants the public members to lobby the Legislature more actively on issues that concern them. Most executive directors have dominated the boards. The staff supports the old system, and so will the public members unless they get some wider input, according to Schulman. The key, he says, is a change of executive directors.

Power struggle

On the contractors' board, three new pubic members are trying to wrest control of the board's staff from the industry. The fight started with the retirement of the board's registrar, Leo Hoschler. The registrar has the final say on disciplinary matters as well as the regular powers of an executive director. The board meets four times a year to manage a $7.5 million a year operation, so the registrar runs the agency.

The contractors felt Hoschler had been fair and tough as their chief regulator, and they planned to throw him a Los Angeles testimonial dinner. They figured 4,000 contractors and industry organizations would pay $25 and $100 a head for the function. Public member Phillip Decker asked if Hoschler would get the left-over money and whether it was proper for a board member, Mark Nottingham, to co-chair the dinner. Attending the first meeting, two new public members, Joe Ouye and Lisa Keehen, helped Decker generate enough flack to discourage contributions. "The dinner might have been ethical 20 years ago, but we live in a new

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Jerry Brown's favorite cop

By Evan L. Maxwell

Jerry Brown and Ray Davis make something of an odd couple — a thin aesthete and a square, hulking cop. But the two men have formed an alliance that may reform law enforcement in California — or at least give it a new look.

Davis has, with the help of the Governor, established himself as one of the most widely known police chiefs in the state. His formula has been fairly simple — success. Three years ago, Davis became chief of Santa Ana, one of the most crime-ridden cities in Orange County. Last year, Santa Ana recorded a 19-percent decrease in major crimes, the most significant decrease in the entire nation. Last year, Brown named Davis as chairman of the California Council on Criminal Justice in recognition of the chief's programs.

But the reduction of crime in Santa Ana by itself probably would not have forged the unlikely alliance between the Democratic Governor and the Republican police chief. The link between them is based as much on the word "community" as it is on success. "Community Oriented Policing," better known as COP, is the core of Davis' approach to reducing Santa Ana's crime. And the cornerstone of Brown's approach to California politics is the development of community solutions to public problems — through the use of volunteers, for example.

Thus, the Democratic Governor risked labor disapproval to eat lunch in a non-union Newport Beach banquet room last spring, just so he could praise Davis at the gathering of police community-relations officers. While Davis beamed, Brown declared that Santa Ana's COP should become a model for other police departments in the state. Programs like Santa Ana's can help to supply the social glue that will re-cement the system and society, Brown said. Human involvement, not sophisticated hardware, will win the war on crime.

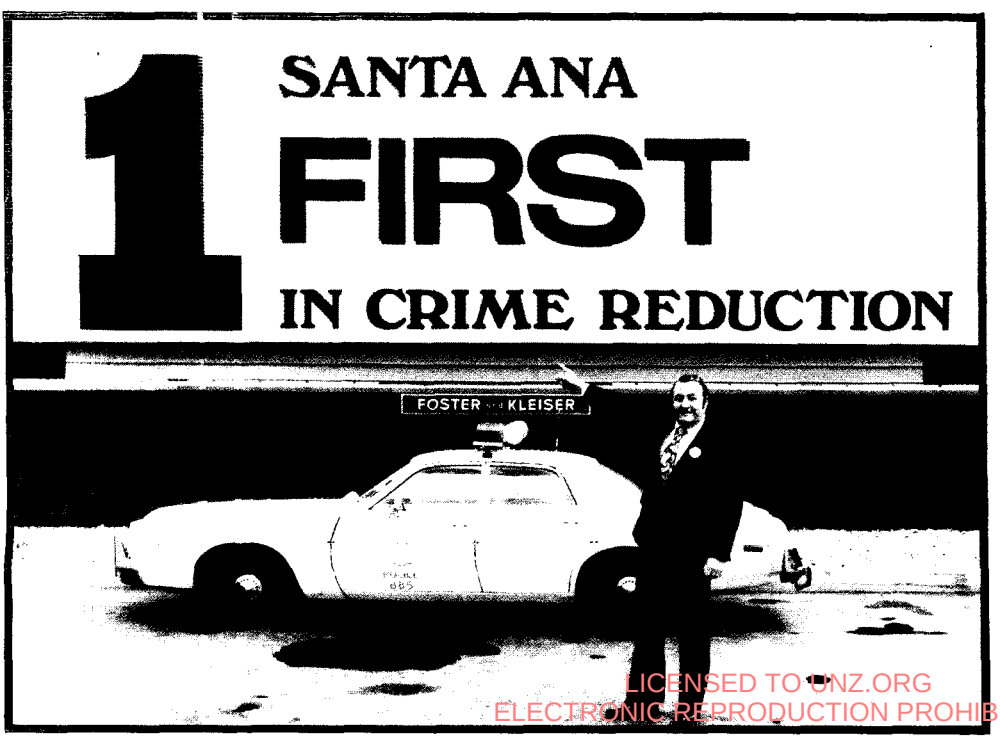
PR and politics

What the Governor did not mention was that Santa Ana's approach to crime and policing is an astute combination of public relations, practical and shrewd politics, and serendipitous timing and placement. This is not to denigrate what Ray Davis and his department have accomplished; it is merely to say that Davis was lucky as well as wise.

Oddly enough, Davis' luck was in Santa Ana itself. Three years ago crime was slowly strangling the city. In some areas, the community and the police were virtually at war. The city's undermanned, underpaid and underequipped police officers were locked in a siege mentality that resulted in almost monthly police shootings. As one officer put it, the modus operandi of most Santa Ana cops was to "kick ass and take names." The city's economy was eroding as soaring crime rates sent industry looking for a more congenial home. In the face of a disappearing tax base, city leaders began looking for solutions to the crime problem. By the time Davis arrived from Walnut Creek, where he had been chief for 10 years, Santa Ana had nowhere to go but up, and the city leaders knew it. They were ready to follow the leader.

Davis shrewdly realized that Santa Ana has more sense of community, or rather communities, than many California cities. Even Santa Ana's extensive barrios are well established; Delhi and Logan have been functioning entities since at least the turn of the century. There are also long-standing neighborhoods of Anglos and Blacks which would be included in his plan. By effectively co-opting the city council and business leaders through what amounted to a captive "fact-finding" commission, Davis forced the city to admit publicly that crime was out of control, and then give him what he needed most — money.

In Davis' plan, the city was divided along pre-existing community lines into four areas, each with two districts. Fifty percent more policemen were to



Evan L. Maxwell is an Orange County reporter for the Los Angeles Times.

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age of ethics," declared Ouye, "The contractors and the board have got to learn that."

Chairman Roads Veale, a public member appointed by Reagan, maintains that the new public members are so disruptive that the board cannot get anything done. But Decker contends that most of the public members' straightforward questions have met with evasive staff response and bitter personal attacks from industry board members and construction-industry lobbyists." He said he simply wants the board to make intelligent decisions "and that comes into conflict with the go-along, get-along way the board has operated. The issue is issues. Is this board going to confront them or not." Keehen claims that she is not anti-business and that the contractors will eventually like her. "I'm a lawyer with a big accounting firm," she said. "I know this board should meet more than four times a year to manage a $7.5 million budget, and I know we shouldn't make $2.5 million decisions (on fee increases) in a day."

Like pulling teeth

The Board of Dental Examiners is one panel that is talking about issues. Although the board was exempted from the full impact of the Gregorio bill, the tactics of the three Brown-appointed public members have made them a potent minority on the panel, which includes six dentists. The public members have, among other things, been able to start work on a dental directory, get changes in the examination and force approval of 83 candidates they felt had been victimized by discrimination.

Dentist-member Gerald Vale says there are not strong splits between public and professional members or between the Brown and Reagan appointees. But public member Jennifer Cross says the gaining of "public power" has been an uphill struggle. The dentists let Cross make up a questionnaire asking dentists if they were interested in a dental directory and what information should be included. This dialogue ensued.

Vale — As a professional man, I would object to the questionnaire on the basis of the language. You do not ask a dentist if he does silver fillings.

Cross — I'm not. I'm going to ask him how much he charges for a silver filling.

Vale — You might ask a lay person if he does silver fillings, but if you're going to send a questionnaire to dentists, you'll have to use dental language.

The three public members are Cross, a consumer advocate; Bobbie Margolis, a health planner; and Emma Coleman Jones, a lawyer. Their important ally is Helyn Luechauer, the first female dentist to serve on the board. The split is male-female on many votes and most discussions. Luechauer encouraged the public members to write dissenting opinions to decisions of the board, and the threat of the written word often has brought about a willingness to compromise by the dentists. The minority bloc has solicited dissent from within the profession. Disgruntled candidates for the state license have found a spokesperson in Cross, and she is good at mustering apparent support for her positions.

Cross and nearly all of the public members want to open up professions to more candidates and to gear exams to public protection. But they will not be able to get much done overnight. The full impact of the public-member bill will not be felt for another year or two as Brown replaces the Reagan appointees. Changes in board staffs will follow. The by-word will then no longer be "what's good for the industry is good for the public." The industries will then be forced to employ more subtle techniques to protect their interests because the club-like atmosphere that once characterized the licensing boards is apparently gone forever.

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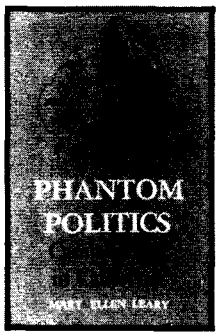

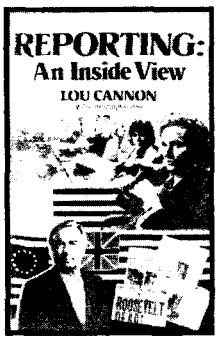

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be hired and deployed in a modified "team policing" formation. The patrol officers were to be stationed on a permanent basis in each district, thereby encouraging the cops to establish rapport with the residents they served. The concept of "team policing" did not originate with Davis, who had begun his career in 1954 as a Fullerton patrolman. The nation's progressive public-administration and criminology schools are full of adherents to such deployment tactics. Nor was Santa Ana's plan all that radical; patrol functions were conducted on a district basis, but the rest of the department was still centralized. The new deployment did, however, put the old-line tail kickers on notice that they were playing on a new team. Any residual recalcitrance among cops was diluted by the addition, in little more than a month, of 100 new men who had never known the bad old days.

Block meetings

With his station house in order, Davis moved into Santa Ana's communities. Again, his approach was not new. Neighborhood watches, block captains and burglary-awareness programs were common in other cities. But Davis and his department worked harder on recruiting citizens than most police agencies, and the new deployment districts gave the police a good framework within which to work. The existing neighborhood infrastructures helped promote the plan and make it a success. Most effective were block meetings, literally hundreds of them, coordinated by para-police community-relations officers and starring the neighborhood's own men in blue. Issues raised at meetings were followed up by the community relations officers and, thanks to 100 new cops on the street, much more efficient police service was available.

The new officers were trained and out on the streets at the end of 1975. By the first quarter of 1976, the crime figures began to turn down. By the middle of the summer, even the local skeptics, including reporters familiar with the flexibility of crime statistics, sensed a story. The media bandwagon started to roll. If crime stats in other cities — both in Orange County and throughout the state — showed similar if not so dramatic declines, so be it. Those other cities did not have so fascinating an explanation as did Santa Ana. It is much easier to write with authority about a new community program than it is to explain logical facts involving population trends and baby booms. Besides, Santa Ana's crime figures were sexier. *New West* magazine's breezy analysis of Davis and his program gained impact by comparing Santa Ana to San Francisco, where the crime rate is unnervingly high. The *New West* article caught the attention of the Governor's office. Brown found the human software approach of COP to his liking. Not only that, it worked.

The lure of excitement

One Saturday evening last spring, Brown and top aide Gray Davis slipped into Santa Ana, unannounced, to meet with Chief Davis and some of the other department brass. Davis decided that the best way to showcase the program was to let his visitors hit the bricks with the local cops. But it was no brass-hat tour conducted by captains and lieutenants; Brown and Gray Davis were put on the streets with beat cops and rode as patrol partners for several hours in two of the city's high-crime areas.

It's an old trick among cops and it's almost always successful. All but the most unfeeling of idealogues succumb to the allure of squad cars and midnight streets, excitement and potential danger. "Those two were like a couple of kids in a candy store," said one of the officers they rode with. "Gray Davis almost got his lights punched out in the middle of a family 415 (domestic fight) and the Governor watched while we chased a burglar. Didn't catch him, but it was fun."

The experience was enough to convince Brown that the Santa Ana program was a success. The political alliance was sealed between the chief and the Governor over cups of coffee at a cop hangout, Norm's Coffee Shop. A few weeks later, Brown named the 44-year-old Davis to the chairmanship of the Criminal Justice Council, sending Gray Davis to Santa Ana to swear him in and to underline the approval that the Governor was bestowing on the chief. The chief has reciprocated. Flattered by the Governor's attention, Davis has overlooked his natural antipathy for Democrats — particularly those who are against the death penalty — and has become an ardent supporter of Jerry Brown.

The Santa Ana COP program has had at least one success that transcends politics. There is a new and real sense of cooperation between cops and citizens. The citizens seem proud that their city has become a symbol of successful crime-fighting; and the cops seem to have lost much of their "us against the bleeps" mentality. Davis is approaching the job of selling other departments on COP-type programs with characteristic attention to political realities. "One thing you never want to do is to make a chief look bad in front of his council and city manager. We want to let them come to us for assistance and expertise; we do not want to take local control and pride away by ramrodding something down their throats. That just won't work," said Davis.

Massaging egos

Instead, the chief says, the state criminal justice council and the Governor's office will offer technical assistance and "outright gifts" in the form of pamphlets and public-service television ads which can be woven into local community-involvement programs. "Every city and every chief has a great deal of ego," he emphasized. "To make this program go, you can't forget that. You can't dictate a program to them; you have to give them some tools, show them some techinques that have worked elsewhere and let them carry the ball."

It remains to be seen how effective Santa Ana will be as a model for modernizing California law enforcement and turning the crime rate down. Communities vary widely; some are not nearly as well-suited to COP-type programs as Santa Ana; there are probably very few that will be willing to invest the tax money required to increase a police force by 50 percent.

In addition, crime rates in the rest of the state have begun to show a decrease — even without special efforts such as COP. Crime may be a good deal more amenable to demographic factors than to neighborhood watches. Time and statistics will tell which is more important.

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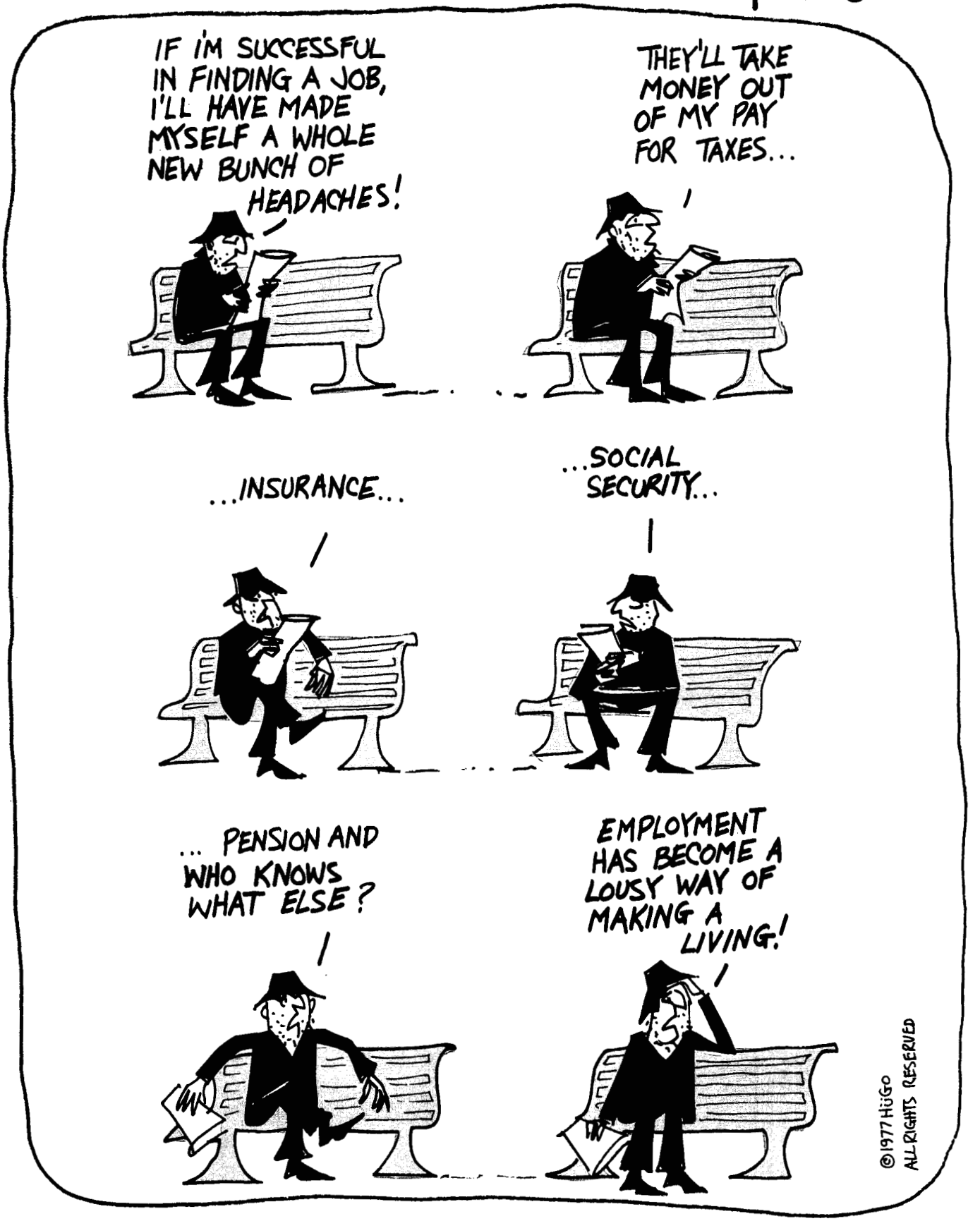
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The conflict-of-interest rules that cover 100,000 Californians

To most Californians, the words "political reform" refer primarily to campaign contributions and control of lobbyists. Yet a third area of reform – conflict of interest – has required the most attention from the state's Fair Political Practices Commission. In the following article, commission member Tony Quinn explores some of the problems faced by the FPPC in establishing rules for California's decision-makers.

By TONY QUINN

In their rush to bell the Watergate cat, Californians trooped to the polls in 1974 and passed, with 70 percent of the vote, the Political Reform Act, known as Proposition Nine. They thought they were controlling lobbyists and campaign contributions — and they were. But few people realized that in passing Proposition Nine they were also enacting the most far-reaching conflict of interest law in the United States, one which will ultimately affect more than 100,000 California public servants.

Conflict of interest laws are a special quagmire of their own. They represent an effort to impose an objective morality on an uncertain business. Americans have always winked at the old pols on the seamier side of politics: a James Michael Curley reelected mayor of Boston from his jail cell, or a George Washington Plunkett living his "I-seen-my-chances-and-I-took-'em"philosophy. But a great national scandal -- a Teapot Dome or a Watergate — arouses the public consciousness, and leaves in its wake a desire to cleanse the system.

It is perhaps unexpected that California, with a reputation for clean politics, should find it necessary to enact the nation's strongest conflict law. But it also makes sense that a state with generally high ethical standards should be the laboratory for such a law. Virtually every state has some sort of prohibition on the most obvious conflicts: buying of favors, outright bribery, feathering one's nest. Prior to 1969, California's conflict statutes were finger-waving "thou shalt nots," with the usual prohibitions against an official having an interest in a contract he is negotiating.

California first experimented with the other approach to conflict laws — public disclosure of personal financial interests — with the 1969 Unruh Act. This law imposed public disclosure in its broadest sense: All public officials were required to disclose all their financial interests. The outcries were not long in coming, and the following year the Unruh Act ended up in the lap of the state Supreme Court. In its landmark *Carmel* v. *Young* decision, the state court declared the Unruh Act unconstitutional, and asserted that public officials have a general right to keep their financial worth private.

But the court also said that the people have a right to know those instances where a conflict may indeed occur, and that the right of privacy does not extend to financial interests of an official which might be affected by the decisions he makes. In other words, disclosure laws would be constitutional where there is a "rational connection" between the official's job and the official's interests.

A second stab

In 1973, the Legislature made a second stab at a conflicts law with the passage of the Moscone Act, which required disclosure of interests "which could be affected materially by any decision taken by the public official." The official was not required to state the exact worth of his interests, but rather a range of values — a major change from the Unruh Act. This law passed the Supreme Court muster, after a suit brought by Nevada County, and most of its major provisions were incorporated into Proposition Nine.

But Proposition Nine went a giant step beyond. While Moscone did require broad disclosure, it was effectively limited to top officials in government: legislators, county supervisors, city council members, planning commissioners. Proposition Nine brings these people under broad disclosure within their official jurisdiction, but it also extends the spotlight of disclosure far down into all state and local government agencies. Every agency of government, other than solely advisory commissions and officers of the court, must adopt a conflict of interest code. That code must designate certain agency employees for disclosure, and indicate what interests they must divulge.

Disclosure is not based on who the employee is, nor what his interests may be, but rather what decision-making powers are possessed by the particular position the employee occupies. So a purchasing agent who buys data processing equipment for a state department theoretically would be required to disclose any interests he or she might have in companies in the data-processing business.

This is a simple case, in which the position involves purchasing powers. Of more difficulty are those positions which involve exercising some regulatory or quasi-regulatory

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power of the state: a hearing examiner, an auditor, a person who sets standards or regulates an industry. Tailoring disclosure categories under a conflict code for these positions becomes a time-consuming and complicated process. Equally difficult are the thousands of positions involving some general state authority which may affect economic interests, such as an engineer who reviews environmental impact statements.

Defining the terms

The task of sorting out the codes and multitude of positions falls to the state Fair Political Practices Commission (FPPC) and the various city councils and boards of supervisors, who are designated "code reviewing bodies" under Proposition Nine. The reviewers began their job in early 1976, but in the first year they were barely able to scratch the surface — even though the FPPC has devoted two-thirds of its time to conflict of interest matters.

Proposition Nine sets the disclosure structure in place, but it does not define the various terms which describe what financial disclosure means. The law mandates that every agency adopt a code which designates positions within the agency that "involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest." While this is the heart of financial disclosure, it is not a concept that is easily defined. What is "participation in a decision," what is "foreseeability," what is a "material effect?" Defining these terms fell to the code-reviewing bodies and consumed the first year of their work.

The FPPC struggled several months defining "participation in a decision," finally coming down on the side of a fairly narrow meaning. Participation exists if an employee negotiates for, advises or makes recommendation to the ultimate decision maker, without significant intervening substantative review — the last four words really being the key.

This definition had the effect of eliminating from code coverage vast numbers of people who may participate in a decision, but whose work is carefully reviewed as it moves up the line. The one major exception to this standard is legal counsel who make or participate in decisions in a unique manner, even though the work may be subject to later review.

This limited meaning of participation strengthened the constitutional basis of the conflict law because it excluded many people whose actions really did not have the "rational connection" the court says must exist between a person's job and his financial interests. "Foreseeability" and "material effect" further limit disclosure to those who can truly affect a financial holding.

There is no formula for determining what is "foreseeable." Rather, a reasonable judgment must be made for each position. If a person exercises a decision-making power, is it reasonable to assume he might affect a financial interest? If so, then foreseeability is met and the interest should be covered by disclosure. Foreseeability is more useful for the other side of the conflict coin in Proposition Nine: the requirement that all public employees disqualify themselves from decision-making which might affect their own finances. Disqualification is only triggerd by an actual incident. An official discloses interests which *might* be in conflict; he must disqualify himself when they actually *are*. Thus a county supervisor cannot vote to authorize a road next to his own property, because it is quite foreseeable that such an action might increase his property values. In other words, foreseeability, like thewhole conflict law, really has its basis in plain common sense.

Snooping too far

The third concept, "material effect," is trickier, but it also limits the coverage of the conflict law and achieves another important goal. Materiality standards keep the government from snooping too far into a person's pocketbook. "Material" means significant or substantial. There is no state interest in any financial holding which cannot be affected by the official in a substantial way. A secretary who buys a box of paper clips isn't affecting any interest in a material way. The power to affect an interest in a material way is the first prerequisite of mandatory disclosure.

Materiality is also a guide as to what is to be disclosed. Perhaps the greatest defect of the Unruh Act was the requirement that exact amounts of a person's financial holdings be disclosed. Proposition Nine concentrates on the type of interest, not the value. Disclosure statements cover real property owned, outside income, and names of investments, but their worth is set forth only in ranges.

The state has no right to ask whether one has 84 shares of Widget Corporation worth $4,800, or 48 shares of Gidget Corporation worth $8,400. The important point is that the official owns Widget and Gidget stock. If he or she can make or participate in a decision which will materially affect Widget or Gidget corporations, then those holdings must be disclosed, and disqualification is required in the appropriate circumstances.

But the official has neither disclosure nor disqualification responsibilities unless his investment or real property interest exceeds $1,000 in value, and his outside income $250. (Gifts, however, must be disclosed at $25, although disqualification is not triggered until $250.) And one's personal residence is excluded from real property disclosure.

With all this boiler plate in place, the FPPC and other code reviewers began going over agency codes last fall. The code reviewers are not looking at the individual interests of employees, but rather at whether the codes designate the appropriate positions within the agency which involve decision-making, and whether the categories for disclosure are constructed rationally. Code reviewers have been limiting both the designated positions and the disclosure categories. Many codes have come to the FPPC with more

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positions designated than necessary, and broader disclosure than needed.

This suggests that most agencies are consciously trying to comply with the spirit of Proposition Nine, and may in some cases being going even farther than is required. The massive resignations from public office once feared from disclosure have not happened, nor have we heard the great cries of protest which critics expected. In the residue of Watergate, there seems a general agreement that openness in government must include some disclosure of personal interests by decision makers.

In the grey area

Those employees clearly in decision-making roles are really not a problem in the conflict codes. But there is a vast grey area of people serving in quasi-advisory positions, many without pay, who exercise significant influence over the conduct of public business. Should they be included in codes or not? Members of redevelopment and planning agencies, as well as many municipal corporations, do exercise varying governmental powers and often undertake obligations as full public agencies. The FPPC has increasingly felt these people should be covered by codes.

History suggests that conflicts of interest most often arise in these types of agencies. Contrary to popular belief, full-time politicians experience conflict situations less often than some agency members, at least in California, since politicians' decision powers are so broad as to affect most of the citizens in the same way. For a conflict to exist under Proposition Nine, it must affect one's interest differently than it affects the public at large. For instance, a local agency, like a redevelopment board, might be made up of local business people, and could act to renovate a downtown area so as to enhance the particular holdings of its members. Clearly a conflict would exist for those affected members.

This is the soft underbelly of California government. While we rightly point with great pride to the reforms of Hiram Johnson and our absence of political machines, the state's vast growth in recent decades has provided situations for conflicts in land development and its related fields. Where conflicts have surfaced from time to time, they have most often involved land acquisition and development projects. The long arm of Proposition Nine reaching down to the local planning agencies may well put an end to this potential for abuse.

The conflict law also attempts to reach two other situations which at times can be a source of abuse: public official-lawyer clients and holdings of an official's spouse. Under certain circumstances, public officials who are lawyers must disclose names of clients, if the clients are affected by the officials' decision-making powers. And under California's community property laws, most holdings of an official's spouse are his or hers as well, and they must be disclosed if they fall into the official's disclosure category.

Finally, Proposition Nine contains detailed requirements for gift disclosure, and for disqualification in the case of decisions involving gift givers. While many officials — including legislators who must disclose their honoraria — are less than ecstatic about this requirement, the recent Korean scandal in Congress proves its worth. This is also an area of particular newspaper interest at disclosure time. Although Proposition Nine does not prohibit gifts, except from lobbyists to state officials, the fact of public disclosure may itself inhibit the once profligate business of swamping public officials with gifts.

Disclosure's real effect

The gift impact underscores the real effect of the new conflict of interest law. The thousands of disclosure forms that eventually will be filed by the numerous officials and public employees won't reveal a ghastly horror of conflicts, because California government is basically clean. But there can be no doubt of the beneficial deterrence in directing the sunlight of public disclosure onto the financial holdings of officials. In the words of FPPC chairman, Dan Lowenstein, "California has constructed an ethical structure, a means of reminding public servants of their duty to conduct their business free from the appearance of conflicts."

On the other hand, it is conceded by virtually everyone working in this field that no conflict of interest law will stop all illegal or immoral acts in government, if officials desire to act in an unethical manner. Despite the fact that several hundred state, and probably several thousand local-government entities, will be covered by the codes once the entire structure is in place, no one expects to find every potential conflict covered, every sin exposed.

Harry Truman once said that all we need to prevent conflicts is the Sermon on the Mount. Californians apparently believe the Sermon is a good start, but it needs a little muscle.

ROSTRUM

The **Journal** *welcomes comments on articles or on issues involving California government and politics.* *The Editors*

Nock, don't Knopf

In an otherwise good and useful article on libertarianism (*CJ*, July 1977), Bud Lembke commits one error that should be corrected. He quotes John Hospers, answering his own question about the number of libertarians in the 1940's: "You could count them on the fingers of one hand: (publisher) Alfred J. Knopf and H. L. Mencken."

No, not Albert J. Knopf. It could only be Albert Jay Nock, one of the finest, but lately unsung, writers of the period. Nock's *Memoirs of a Superfluous Man* compares with Adams' *Education*, and his *Our Enemy The State* is among the finest essays on libertarian thought of all time.

K. E. GRUBBS JR.
Editorial Page Editor
The Register
Santa Ana

Twice second

I just finished reading Robert B. Tucker's "Flying Into The Black Hole" (*CJ*, August 1977). The Orange County Airport was not mentioned, and since said airport is the second busiest airport in the United States, it would not fall under the "smaller airports" caption.

Orange County Airport has more takeoffs and landings than LAX and the larger eastern airports, albeit the majority of the traffic is private aircraft. I am surprised that Mr. Tucker ignored the second busiest airport in the United States, situated in the second most populated of the 58 counties in this State.

ROBERT L. CITRON
Orange County
Tax Collector-Treasurer

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The 'upward mobility' challenge to traditional promotion practices

By STUART C. LOTT JR.

For many managers, both in the public and private sectors, one of the most difficult and troubling issues of recent years has been affirmative action. It frequently presents the manager with the classic "no win" situation: Any course of action taken is guaranteed at least to offend someone — and may well result in litigation.

Now, however, an even more difficult and potentially controversial program confronts managers. Commonly referred to as "upward mobility," it expands the affirmative action picture in a significant way.

Certainly any personnel selection process that can be devised will provoke controversy. This is because personnel selection implicitly involves the allocation of a scarce and highly valued commodity: a job. The higher the level being selected for, the scarcer and more valuable the commodity becomes. But when radically new concepts are introduced into the promotional selection process, the level of controversy and sensitivity takes a quantum leap.

Traditional affirmative action programs stress the need for an organization to achieve labor force parity in terms of women and various ethnic minorities. Such parity can be achieved by bringing such individuals into entry-level classes and then letting them take their chances in the normal struggles for promotion. Yet many women and minorities — sensing that the time will never be more ripe and feeling impatient and skeptical — do not want to wait. Therefore, they have brought both legal and political pressure to bear on various organizations — and the result is a variety of so-called "upward mobility" programs for women and minorities. The thrust of such programs is to move as rapidly as possible to the point where women

and minorities are distributed at *all* levels in proportion to their representation in the total work force. Thus, if persons of Hispanic origin constitute 13.7 percent of the total work force (this is the estimated figure in California), they should constitute 13.7 percent of all department directors, 13.7 percent of all division chiefs and so on. The theory behind these programs is that — if it hadn't been for long and pervasive discrimination (either overt or as a result of social roles, demographic patterns, etc.) — women and minorities would be represented at all levels and upward mobility programs would be unnecessary.

The focus of the controversy obviously stems from the difference between distribution and representation. The latter goal merely involves matching percentages with the work force, without regard to the levels involved. Given the fact that most organizations have long-established policies of "promotion from within," new employees normally join the organization at or near the bottom, at the "entry level." Historically, individuals have only joined organizations at higher levels when, as a result of new technologies or other factors, an inadequate internal candidate group existed. By contrast, upward mobility programs raise the issue of distribution and, in the process, attack many of the traditional selection rules and assumptions.

Problems in the process

What, then, are the techniques used to achieve upward mobility? Here are some of the more common devices currently in use in California state government — and some of the problems that result:

- The process of **inter-class transfers,** once tightly controlled, has been greatly liberalized in recent years. Some argue that this new flexibility allows managers to do a better job, not only in the area of personnel selection but in an operational sense as well. Others point to obvious and inevitable abuses, and charge that the liberalized transfer policy is simply designed to move unqualified women and minorities into higher levels quickly. At least an element of truth can be found on both sides.
- Also being tried is the so-called **"bridging" class.** Such classes are used to provide a "bridge" between lower-paid classes (mostly clerical and laboring positions, heavily populated with women and minorities) and higher-paid, professional classes. Proponents of the bridging classes argue that they allow managers to select highly motivated individuals from nontraditional sources and train them while paying them at lower salaries. Critics charge that such

Stuart C. Lott Jr. is a personnel analyst for the state government.

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classes lower the quality of the professional work force; serve to deny employment to some who have completed college or other professional preparation on their own time and at their own expense, not the employer's; and fail to recognize that certain skills, knowledges and abilities can only be gained by completion of a formal curriculum at the upper division or postgraduate level, not on the job. They argue that people make fundamental life and career choices upon reaching adulthood and that they must be responsible for such freely made choices. If they desire to make major changes in these options later, the inconvenience of making such changes should fall on the individual, not the employer. Advocates of "bridging" feel that the employer should assist "late bloomers" to achieve newly found career goals, and that it is in the employer's interest to do so, not only operationally but ethically.

○ The use of **traditional written exams** has greatly declined. This decline is based on two assumptions: (1) Written tests are poor measures of subsequent successful job performance; and (2) Minorities as a group do less well on written tests than do nonminorities. Opponents of testing say this differential in success grows out of long and pervasive socio-cultural-economic discrimination — and that employers, particularly in the public sector, have a moral if not a legal obligation to attempt to mitigate such past deprivation. On the other hand, many managers argue that such differences in success rates stem from the inability of some people to read and analyze the "king's English," and that employers have every right to ascertain such weaknesses and recruit accordingly. (The courts have generally rejected this argument.)

○ Finally, **training programs** of all kinds have been expanded, and women and minorities are being strongly encouraged to attend. The Legislature is considering a proposal which would mandate rather elaborate goals and timetables for the state, as well as new training and career counseling for upward mobility purposes. The same bill (AB 284) has been defeated twice before.

Down to the crunch

There are very real ethical and legal questions surrounding the subject of upward mobility. Everyone agrees that selection systems should, ideally, be "fair." Such agreement, however, is roughly akin to being favorably disposed to motherhood and the flag. The "crunch" comes in the specifics: What is fair and what isn't?

In this sea of confusion and conflict, one might hope for an island of rationality in the laws governing the civil service system. In California, at least, such a hope is largely a vain one. The pertinent law is intentionally general in language and therefore open to considerable interpretation. In the absence of clear guidance from the courts, this interpretation is administratively provided by personnel managers and in-house legal counsels.

The entire affirmative action area is still too new to have been fully defined in court. Thus, confusion often reigns. Earlier this year, the U.S. Supreme Court agreed to hear a case growing out of the University of California's special medical school admissions program for ethnic minorities. A white applicant, Allan Bakke, upon being denied admission, brought suit in 1973 against the university and its special admissions program. The California Supreme Court found for the plaintiff and the case was appealed by UC. The Supreme Court's decision will have major significance for the total affirmative action-upward mobility scene nationwide.

In recent cases involving an entrance exam in Washington, D.C. and rent-subsidized housing in Illinois, the Supreme Court has held that if an official policy merely has the *effect* of excluding one group more than another, no constitutional remedy is available. The aggrieved party must prove *intent* to discriminate. This doctrine — if carried into the general affirmative action area — may profoundly affect future law suits involving work force composition, the adverse effect of written exams and related areas.

Part of the confusion stems from the U.S. Supreme Court itself. In cases such as *Griggs v. Duke Power*, the court based its decision on Title Seven of the Civil Rights Act of 1964. As a result it stressed the fact that one must consider the *effect* of a policy or decision even though no *intent* to discriminate is found. If an action produces an adverse effect on a protected group, it is invalid on its face. The previously mentioned Washington and Illinois cases turn on the Fourteenth Amendment to the U.S. Constitution and, as indicated, take quite an opposite view.

In a case involving seniority systems, the Supreme Court in May held that an otherwise "neutral" system is legal, even though it may perpetuate the effects of past discrimination against minorities and women. In companion rulings, however, the court held that individuals who were refused jobs for discriminatory reasons after passage of the 1964 Civil Rights Act can sue for retroactive seniority. Surprisingly, the court relied heavily on work-force statistics to establish that discrimination had occurred. In other recent cases the court has frowned upon the excessive use of statistics. These decisions, however, provide little assistance in second-guessing the outcome of the Bakke case, since they turn on an entirely different part of the 1964 Civil Rights Act. The Supreme Court, it seems, has a ways to go to clear the air completely.

Federal selection guidelines aren't much help either. Until recently there were at least four different and sometimes conflicting guidelines issued by the various interested federal agencies. Now three agencies have issued combined guidelines but the federal Equal Employment Opportunity Commission dissented and retained its own guidelines. Although the number of guidelines has been reduced, confusion and conflict obviously persist.

Perhaps a more difficult problem lurks in the shadows of interoffice relations. Plenty of controversy would be generated by upward mobility programs, even if everyone involved had perfectly accurate information about them. But such programs inevitably generate much emotion, misunderstanding and prejudice. It goes without saying that some white males will feel threatened; some women and minorites will feel the programs are too little, too late. In such a situation, false perceptions can be terribly destructive to employee morale and productivity. It is a cliché to say that communication is the key to the solution, but in this case communication is truly essential. Everyone must understand that upward mobility doesn't give anyone a *right* to be promoted and that the race is still to the swift. Perhaps some new people will be at the starting line, but that is all.

The integrity of operational programs must remain paramount. Taxpayers have a right to demand efficient delivery of services. Program managers — paid to ensure that taxpayers get what they are paying for — must integrate new personnel programs, including upward mobility, into the overall goal of efficient operation. Providing employment is, after all, only an ancillary function of government.

In the final analysis, upward mobility programs, like any personnel selection device, can make or break an organization. In an age of tight budgets and close public scrutiny, governmental managers must — no matter how they structure their personnel selection programs — constantly strive for excellence in the people they hire and promote.

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Tax relief first, school aid second

Can the state afford to spend about $6 billion more for property-tax relief and aid to schools in five years? If not, how much can it afford? Those were the crucial questions that arose in mid-August after Senate-Assembly conference committees agreed on compromise bills supposedly resolving the tax and school-finance problems that had been hanging over legislators' heads since the start of the year. The trouble was that both committees spent some of the same surplus dollars, and after the compromises were announced it became clear that one or both would have to give.

Politically, there was more sex appeal in the tax-relief measure, which would make Governor Brown and lawmakers look good shortly before an election. No one seemed able to predict with certainty what a safe total would be for the two bills, but hardly anybody was willing to take a chance on $6 billion in the fifth year. So, on August 24th, the school-finance package was scaled down so that the total cost of both measures would probably fall below $5 billion in the fifth year.

The school-aid compromise was keyed to how much would be spent for special education for the handicapped and for so-called restructuring of the system (the establishment of policy by councils including parents and even students). The Assembly pushed for these programs, and received much of what it wanted, especially for special education.

The tax-relief plan would provide almost $1 billion in relief to homeowners and renters in the first year and would also abolish the tax on business inventories, place some limits on state and local revenues, increase the capital-gains tax and boost the bank and corporations tax by one percent. The net effect would be to provide substantial relief to lower-income Californians, token relief to those in the middle range and almost nothing for those with family incomes over $40,000 a year.

There was no question that the state could afford the two pre-August 24th bills in the early years because the school package would not cost more than $1 billion until the third year. But no one could predict when the package would force the Legislature to increase taxes. State Treasurer Jesse M. Unruh was the only state official who suggested that the state could afford both packages. He said he had a "seat of the pants feeling" that the state's current-year surplus may be over $4 billion — far in excess of the $2.5 billion predicted by the Department of Finance.

While these intertwined issues were being unraveled, the Assembly completed the override of Governor Brown's veto of Senator George Deukemejian's death-penalty bill. The vote was 54-26 on the measure, which restored capital punishment for treason and a dozen categories of murder. The Governor did not work hard to block the override, and it was apparent that the Democrats preferred to have the Deukmejian bill go into effect than face the issue as a ballot initiative next year.

Senate (26D - 14R)	SCA 46	AB 72	AB 155	AB 533	AB 1162	AB 607	AB 1403	AB 649
Alquist (D)	Y	Y	*	Y	N	*	Y	N
Ayala (D)	Y	Y	N	Y	Y	*	N	N
Behr (R)	Y	Y	Y	Y	Y	Y	Y	Y
Beverly (R)	Y	Y	N	Y	Y	*	Y	N
Briggs (R)	N	*	*	N	Y	Y	N	*
Campbell (R)	N	*	Y	Y	Y	*	N	N
Carpenter, D. (R)	N	*	Y	N	*	Y	*	N
Carpenter, P. (D)	Y	Y	*	Y	Y	Y	N	N
Cusanovich (R)	N	Y	Y	Y	Y	Y	N	N
Deukmejian (R)	N	N	Y	N	Y	Y	N	N
Dills (D)	Y	Y	Y	N	Y	Y	N	N
Dunlap (D)	Y	*	N	Y	Y	N	Y	Y
Foran (D)	Y	Y	Y	Y	Y	N	Y	N
Garamendi (D)	Y	Y	Y	Y	Y	*	Y	Y
Garcia (D)	Y	Y	*	Y	Y	*	N	*
Greene	Y	Y	Y	Y	*	Y	Y	Y
Gregorio (D)	Y	Y	N	Y	*	*	Y	Y
Holden (D)	Y	Y	N	Y	Y	*	Y	Y
Holmdahl (D)	N	Y	N	N	Y	Y	N	N
Johnson (R)	N	N	Y	Y	N	Y	N	N
Marks (R)	*	Y	N	Y	Y	N	Y	*
Mills (D)	Y	Y	Y	Y	Y	Y	Y	Y
Nejedly (R)	*	Y	N	Y	Y	Y	N	N
Nimmo (R)	*	Y	Y	N	N	Y	N	N
Petris (D)	Y	Y	N	Y	Y	*	Y	Y
Presley (D)	*	Y	Y	N	N	Y	N	N
Rains (D)	Y	*	*	Y	Y	*	Y	Y
Richardson (R)	N	N	Y	N	N	Y	N	N
Robbins (D)	N	Y	Y	Y	*	Y	Y	Y
Roberti (D)	Y	Y	N	Y	Y	N	Y	Y
Rodda (D)	Y	Y	Y	Y	Y	Y	Y	Y
Russell (R)	N	N	Y	N	N	Y	N	N
Sieroty (D)	Y	Y	N	Y	Y	N	Y	Y
Smith (D)	Y	Y	N	Y	*	Y	Y	Y
Song (D)	Y	*	Y	Y	Y	Y	Y	N
Steirn (D)	*	Y	Y	N	*	Y	N	N
Stull (R)	N	*	Y	*	N	Y	N	N
Vuich (D)	*	Y	N	N	N	Y	Y	N
Wilson (D)	*	Y	Y	Y	Y	Y	Y	N
Zenovich (D)	*	*	*	*	Y	*	N	*

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through mid-August. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y - Yes
N - No
*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

Senate

EDUCATION

SCA 46/48 (Robbins) — Proposed constitutional amendments to prohibit busing of students. Procedural motion to delay hearings on measures adopted, 21 - 11.

AB 72 (Greene) — Proposed $350 million school-construction bond issue for 1978 ballot. Passed, 28 - 4.

EMPLOYMENT

AB 155 (Goggin) — Reduces period of employer liability for occupational disease or injury under workers' compensation from five years to one year. Passed, 21 - 13.

AB 533 (Berman) — Prohibits employers from asking job applicants about participation in pre-trial or post-trial drug-diversion programs. Conference report adopted, 27 - 11.

MISCELLANEOUS

AB 1162 (Chel) — Authorizes attorney general and district attorneys to sue busi-

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nesses for anti-trust violations and obtain damages on behalf of injured parties. Passed, 27-8.

AB 607 (Nestande) — Bans marriages between persons of the same sex. Passed, 23-5.

AB 1403 (Egeland) — Allows county jail prisoners to care for their own children as part of a work-furlough program. Passed, 21-18.

AB 649 (Sieroty) — Authorizes conduct of voter-registration and petition-signing activities at shopping centers and malls. Failed, 14-22.

Assembly

ENVIRONMENT

SB 153 (Dunlap) — Prohibits manufacture of aerosol propellants after July 1, 1978. Failed, 34-34.

SB 522 (Dunlap) — Extends moratorium on killing mountain lions another five years to 1983. Passed, 58-14.

JUSTICE

SB 155 (Deukmejian) — Reimposes death penalty for treason and 15 categories of first-degree murder. Governor's veto overridden, 54-26.

AB 1073 (Ellis) — Exempts elected officials and peace officers from jury duty. Passed, 41-37.

MISCELLANEOUS

SB 813 (Dunlap) — Increases maximum interest that can be charged by a credit union from 12 to 15 percent. Passed, 52-22.

SB 274 (Behr) — Abolishes the lottery system for laying off teachers; allows school districts to determine layoff procedure. Passed, 42-31.

SB 566 (Roberti) — Appropriates $250,000 to the Department of General Services to finance a program to reduce the number of printed forms used by state agencies. Passed, 69-9.

ACA 55 (Papan) — Proposed constitutional amendment lowering the drinking age from 21 to 19. Passed, 54-25.

Assembly (57D-23R)	SB 153	SB 522	SB 155	AB 1073	SB 813	SB 274	SB 566	ACA 55
Agnos (D)	Y	Y	N	Y	Y	Y	Y	Y
Alatorre (D)	*	Y	N	N	N	*	*	Y
Antonovich (R)	N	Y	Y	N	Y	Y	Y	N
Arnett (R)	N	Y	Y	Y	Y	Y	Y	Y
Bane (D)	Y	Y	Y	Y	Y	N	Y	N
Bannai (R)	*	*	Y	N	Y	Y	Y	Y
Bates (D)	Y	Y	N	N	N	Y	Y	Y
Berman (D)	Y	Y	N	N	Y	N	Y	Y
Boatwright (D)	N	Y	Y	Y	Y	N	Y	N
Brown (D)	*	Y	N	N	N	N	N	Y
Calvo (D)	Y	Y	N	N	Y	Y	Y	Y
Chacon (D)	Y	Y	Y	Y	N	N	Y	Y
Chappie (R)	N	N	Y	Y	Y	N	Y	N
Chel (D)	N	Y	Y	N	N	N	N	Y
Chimbole (D)	N	N	Y	N	N	Y	Y	N
Cline (R)	Y	Y	Y	Y	N	Y	Y	Y
Collier (R)	N	Y	Y	Y	Y	Y	N	N
Cordova (D)	N	Y	Y	N	Y	Y	Y	Y
Craven (R)	N	*	Y	Y	Y	Y	Y	Y
Cullen (D)	N	N	Y	*	N	Y	N	Y
Dannemeyer (R)	N	N	Y	Y	Y	Y	N	N
Deddeh (D)	N	Y	N	Y	N	N	Y	Y
Dixon (D)	N	*	N	Y	Y	N	Y	Y
Duffy (R)	*	*	Y	Y	Y	N	Y	N
Egeland (D)	Y	N	Y	N	Y	N	Y	N
Ellis (R)	N	N	Y	Y	Y	Y	Y	N
Fazio (D)	Y	Y	N	N	Y	Y	Y	Y
Fenton (D)	*	Y	Y	Y	N	*	N	Y
Gage (D)	Y	Y	N	N	Y	Y	Y	Y
Goggin (D)	Y	*	Y	N	Y	Y	Y	Y
Greene (D)	N	Y	Y	N	Y	Y	Y	N
Gualco (D)	Y	Y	Y	Y	N	*	Y	N
Hallett (R)	N	N	Y	Y	Y	Y	Y	N
Hart (D)	Y	Y	N	N	*	Y	Y	Y
Hayden (R)	*	Y	Y	Y	N	N	Y	N
Hughes (D)	N	Y	N	Y	*	N	Y	Y
Imbrecht (R)	Y	Y	Y	N	N	Y	Y	Y
Ingalls (D)	*	Y	Y	Y	Y	Y	Y	Y
Kapiloff (D)	Y	Y	N	N	N	N	Y	Y
Keene (D)	*	*	N	N	*	Y	Y	Y
Keysor (D)	Y	Y	N	N	Y	N	Y	Y
Knox (D)	N	Y	N	N	Y	N	Y	Y
Lancaster (R)	N	Y	Y	Y	Y	Y	N	N
Lanterman (R)	N	N	Y	Y	Y	Y	N	N
Lehman (D)	Y	Y	Y	N	N	Y	Y	Y
Levine (D)	Y	Y	N	N	N	N	Y	Y
Lewis (R)	N	N	Y	Y	Y	Y	N	N
Lockyer (D)	Y	Y	Y	N	*	*	Y	Y
Maddy (R)	N	N	Y	Y	Y	Y	Y	*
Mangers (D)	N	Y	Y	N	Y	N	Y	N
McAlister (D)	N	Y	Y	Y	N	N	Y	N
McCarthy (D)	*	Y	N	Y	Y	Y	Y	Y
McVittie (D)	N	Y	Y	N	Y	N	Y	Y
Mello (D)	Y	Y	Y	N	Y	Y	Y	Y
Miller (D)	Y	*	N	Y	N	*	*	Y
Montoya (D)	*	Y	Y	N	Y	Y	Y	Y
Mori (D)	Y	Y	Y	Y	Y	Y	Y	N
Nestande (R)	Y	*	Y	Y	Y	N	Y	Y
Papan (D)	N	Y	N	Y	Y	N	Y	Y
Perino (D)	*	N	Y	Y	Y	Y	Y	N
Priolo (R)	N	Y	Y	Y	Y	N	Y	Y
Robinson (D)	N	Y	Y	N	Y	N	Y	Y
Roos (D)	Y	Y	N	N	Y	N	Y	Y
Rosenthal (D)	Y	Y	N	N	N	N	Y	Y
Ryan (R)	Y	Y	Y	N	Y	Y	Y	Y
Statham (R)	Y	Y	Y	Y	Y	Y	Y	Y
Stirling (D)	N	Y	Y	Y	Y	Y	Y	N
Suitt (D)	N	N	Y	Y	*	Y	Y	N
Thomas, V. (D)	N	N	Y	Y	Y	*	Y	Y
Thomas, W. (R)	N	Y	Y	Y	Y	Y	Y	Y
Thurman (D)	N	Y	Y	*	Y	N	Y	N
Torres (D)	Y	Y	N	N	N	Y	Y	Y
Tucker (D)	Y	Y	N	Y	N	N	Y	Y
Vasconcellos (D)	Y	Y	N	N	N	Y	Y	Y
Vincencia (D)	Y	Y	Y	Y	Y	N	Y	Y
Waters, M. (D)	Y	Y	N	N	*	N	Y	Y
Waters, N. (D)	Y	N	Y	Y	Y	Y	Y	Y
Wornum (D)	Y	Y	Y	N	Y	Y	Y	Y
Wray (D)	*	Y	Y	Y	Y	*	Y	N
Young (D)	N	Y	Y	N	Y	N	Y	Y

NEWSMAKERS

The long green for Riles

Superintendent of Public Instruction **Wilson Riles** decided that "psychic wages" are not sufficient to supplement his $35,000 a year state salary. He accepted a seat on the Wells Fargo Bank board of directors and will receive $4,000 a year plus $300 for every meeting he attends . . . United States Senator Alan Cranston selected **Herman Silas,** state director of motor vehicles, for appointment as U.S. attorney for the central valley . . . **Paul R. Leake** of Woodland, former member of the state Board of Equalization, died at the age of 87 . . . The state Fair Political Practices Commission announced that it found no evidence of personal wrongdoing by Supervisor **Robert Mendelsohn** of San Francisco, but will sue his campaign committee for false reporting of transactions. The issue of campaign finances was raised after Mendelsohn was nominated by President Carter to be assistant secretary of the interior . . . **Richard Silberman,** state secretary of business and transportation, resigned as chairman of the commission screening applicants for federal judgeships . . . Governor Brown appointed 80-year-old **Theodora Kroeber Quinn,** author of *Ishi in Two Worlds, the Last Wild Indian of North America,* to the University of California Regents.

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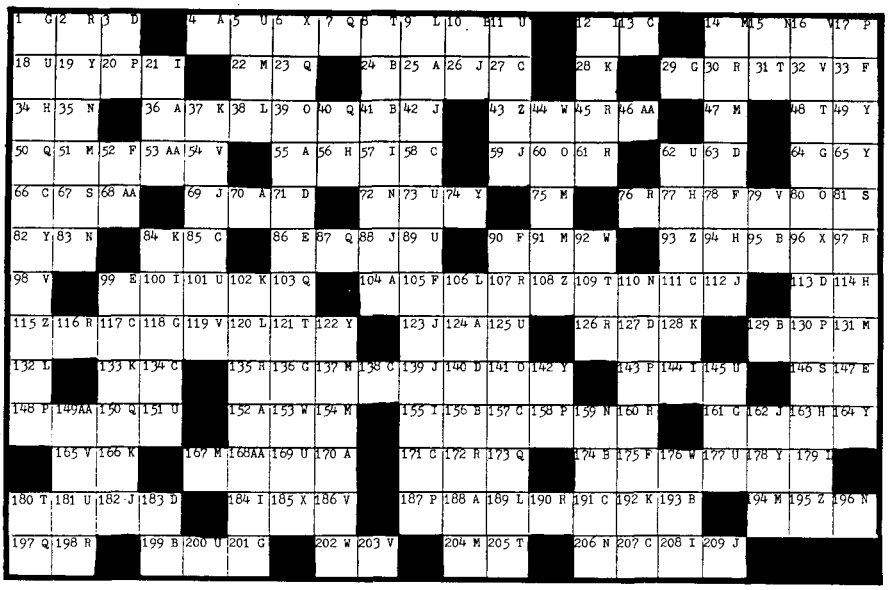
The Political Double-Cross

by Alisa Belinkoff



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Instructions: Although this looks like a crossword puzzle, the words read only across, not up and down. The completed diagram spells out a quote about politics in California. Fill in the answers to the clues and transfer the letters to the corresponding spaces in the diagram. You may also work backwards, guessing at words in the diagram and transferring the letters to the clue spaces. The first letters of the clue answers, taken in order, spell out the title and author of the book from which the quote is taken. Most of the clues refer to the California political scene.

CLUES

A. Who said "There it is — take it"?
104 188 55 25 70 36
170 152 124 4

B. Opportunist's luggage.
10 156 41 174 95 24
129 199 193

C. How to keep your contributions secret.
138 191 157 207
13 85 117 27 171
111 66 134 58

D. The other side of expense.
113 3 127 183 63 71 140

E. Measure used with "K", below.
147 86 99

F. Libel suit winner.
52 175 33 78 90 105

G. Embattled park.
29 118 201 64 1 136 161

H. Focus of bidding war.
94 77 34 56 163 114

I. Second stop (see "Q", below).
184 100 208 57
21 155 12 144

J. Diamond Lane fighter; L.A. Councilman.
69 26 139 162
42 209 123 88 112 182 59

K. Conveyor of hydroelectricity from the Pacific Northwest.
28 192 166 37 102
84 133 128

L. What the fleet did after the strike.
189 179 120 38 106 132 9

M. Latest bankroller for CED: "Fun ___ ___ & ___."
167 22 204 91
154 75 14 51 194 47 137 131

N. Ideology of North Beach.
206 35 83 15
159 110 72 196

O. General of the Times.
60 39 80 141

P. University Trustees.
187 158 17 130 148 143 20

Q. First stop, recent Presidential presence (see "I", above).
173 87 7
23 197 40 103 50 150

R. Source of dirty water.
107 45 190
76 172 126 2 160
198 116 61 97 135 30 ion

S. Three letters for a typewriter.
81 67 146

T. New hope for the unemployed.
31 121 180 109 48 205 8

U. Team for Community College Governor.
145 73 11 169 177 200 101
18 181 62 125 89 5 151

V. Legislators, on the floor.
16 186 165 54 98
119 203 79 32

W. With "Y": the only ancient item DMV didn't have.
202 44 92 176 153

X. Adjective for nerves.
96 6 185

Y. See "W", above.
82 74 19
178 65 49 122 164 142

Z. Envelope verb.
93 108 195 43 115

AA. Santa Clara Senator.
53 46 168 149 68

SOLUTION: A. **M**ulholland; B. **C**arpetbag; C. **G**ive forty nine; D. **R**evenue; E. **O**hm; F. **A**llotd; G. **R**edwood; H. **I**rvine; I. **T**alk show; J. **Y**aroslavsky; K. **I**ntertie; L. **N**et tuna; M. **W**ith Dick Jane; N. **H**edonism; O. **O**tis; P. **R**egents; Q. **U**AW speech; R. **N**on point pollution; S. **SCM**; T. **CETA** job; U. **O**akland Raiders; V. **N**oisesome; W. **G**reen; X. **R**aw; Y. **E**yeshades; Z. **S**tuff; AA. **S**mith.

Former Congressman John Stevens McGroarty of California, in *Who Runs Congress?* by Green, Fallows, and Zwick, page 201: "One drawback of Congress is that I receive letters from a jackass like you in which you say I promised to have the Sierra Madre Mountains reforested and I've been in Congress two months and haven't done it. Will you please take two running jumps and go to hell."

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A WASHINGTON PERSPECTIVE . . .

By Leo Rennert

The congressional fight over President Carter's plan to expand Redwood National Park, which is nearing a showdown on both sides of Capitol Hill, has become a critical test of the legislative muscle of two leading figures in the California delegation. In the House, Representative Phillip Burton of San Francisco put his personal brand on the expansion bill early this year, then singlehandedly maneuvered it through his own national-parks subcommittee and the full Interior Committee. In the Senate, Assistant Majority Leader Alan Cranston agonized for months over exactly how much land should be added to the park. Pressed by the Sierra Club, he finally agreed with Carter and Burton that an extra 48,000 acres is the bare minimum to protect the world's tallest trees against encroachment from commercial logging. With the Senate facing a heavy energy agenda in the next few weeks, Cranston now is in a race against time to steer the redwoods measure through committee and toward final floor action before the October adjournment.

Time is a critical factor. The nine-year-old park in Del Norte and Humboldt Counties already bears ecological scars left by the benign-neglect policy of the Nixon and Ford administrations, which refused to create a protective buffer zone to hold back the loggers' saws. Any legislative snags at this point might well open the door to resumption of timber cutting on the park's periphery and the prospect that the redwoods bill could get lost in the crush of more pressing election-year priorities like welfare overhaul, tax reform and national health insurance.

In the face of these deadline pressures and continued strong opposition by timber firms, Burton and Cranston will be waging essentially one-man battles, thus tying the fate of the redwood park to their own personal prestige and power. To some extent, these solo performances were unavoidable. Unlike 1968, when the present 58,000-acre park was created, there is little evidence of any ground-swell of popular demand for completing the task and, correspondingly, little evidence of interest by most legislators. Cranston also cannot count on help from his California colleague, Republican S. I. Hayakawa, who is sympathetic to the loggers' view. In Burton's case, there's an additional factor of personal pride. After losing the majority leader race at the beginning of this Congress by a single vote, the San Franciscan turned his massive energies and parliamentary skills to the redwoods battle. It is a challenge — and a potential triumph — he is in no mood to share with others.

* * *

Still, the failure to mount a team effort in support of the bill is quite remarkable in view of the fact that it represents by far the most expensive land-acquisition chapter in the history of the National Park Service. Its $411-million price tag is more than double the cost of the previous record high, which was set in creating the existing redwood park.

Opposition in the House so far has been fairly tame — and no match for Burton. Congressman Don Clausen, who represents the redwoods region, fought a losing rear-guard fight during preliminary rounds. Several fellow Republicans deserted him. Clausen himself was forced to scramble to be safely on both sides of the issue — nominally against the whole bill while pushing hard for offsetting economic aid for his area just in case it passes. The upcoming floor fight, however, could take a different turn if many members suddenly get scared by the big price tag, or if Burton's popularity becomes the key issue. Burton may be the bill's biggest asset, but he also could be its greatest liability.

Sensing this, the timber companies have concentrated their fire at least as much on Burton as against the bill's provisions. After Burton's subcommittee approved the measure, William D. Walsh, senior vice president of Arcata National, said Burton was driven by a "desire to build a personal environmental monument."

* * *

But Burton has more up his sleeve than just salving the wounds of his losing leadership bid or, even, protecting redwoods. Looking beyond the immediate objective of expanding the park, he has attached to the bill several unprecedented "riders" which may give environmentalists an entire arsenal of new weapons for other preservation battles. The most important is a $40 million package to provide replacement jobs and income security to loggers and millworkers displaced by expansion of the park. This marks the first time that a major national park-acquisition project would compensate not just landowners but also affected workers. Burton sees the jobs-protection provision as a widely applicable tool to break up business-labor coalitions arrayed against environmental protection efforts. His message, through the redwoods bill, is that labor unions and the Sierra Club can find common ground.

The bill's other significant "firsts" include federal authority to regulate logging on remaining private lands in the Redwood Creek watershed, plus a $5 million "taxpayers' defense fund" to allow the government to hire expert land appraisers to keep settlement costs down and to prevent landowners from reaping windfalls. Timber and other private development interests strongly oppose these provisions, not just because of their immediate impact but, more importantly, because they could strengthen the government's hand in many other fights to preserve scenic areas.

At this point, the conventional view on Capitol Hill is that Cranston, because of his late start, may have a more difficult time than Burton in meeting the October adjournment deadline. It remains to be seen whether Senate Majority Leader Robert Byrd, who is determined not to prolong the session, will go much out of his way to help Cranston. Environmentalists also are concerned that Cranston, because of a natural tendency to reach for a quick compromise, may agree to dilute or eliminate some of the bill's more controversial provisions.

The state thus is set for the biggest legislative test this year of two Californians with widely different temperaments. Burton, a brusque wheeler-dealer, failed in his quest for the No. 2 leadership post in the House, while Cranston, a quiet consensus-seeking operator, captured the same prize in the Senate without a fight. The question now being asked in connection with the fate of the redwoods bill is whether Cranston will be able to accomplish as much from his position within the leadership as will Burton, who was left out in the cold when the 95th Congress opened.

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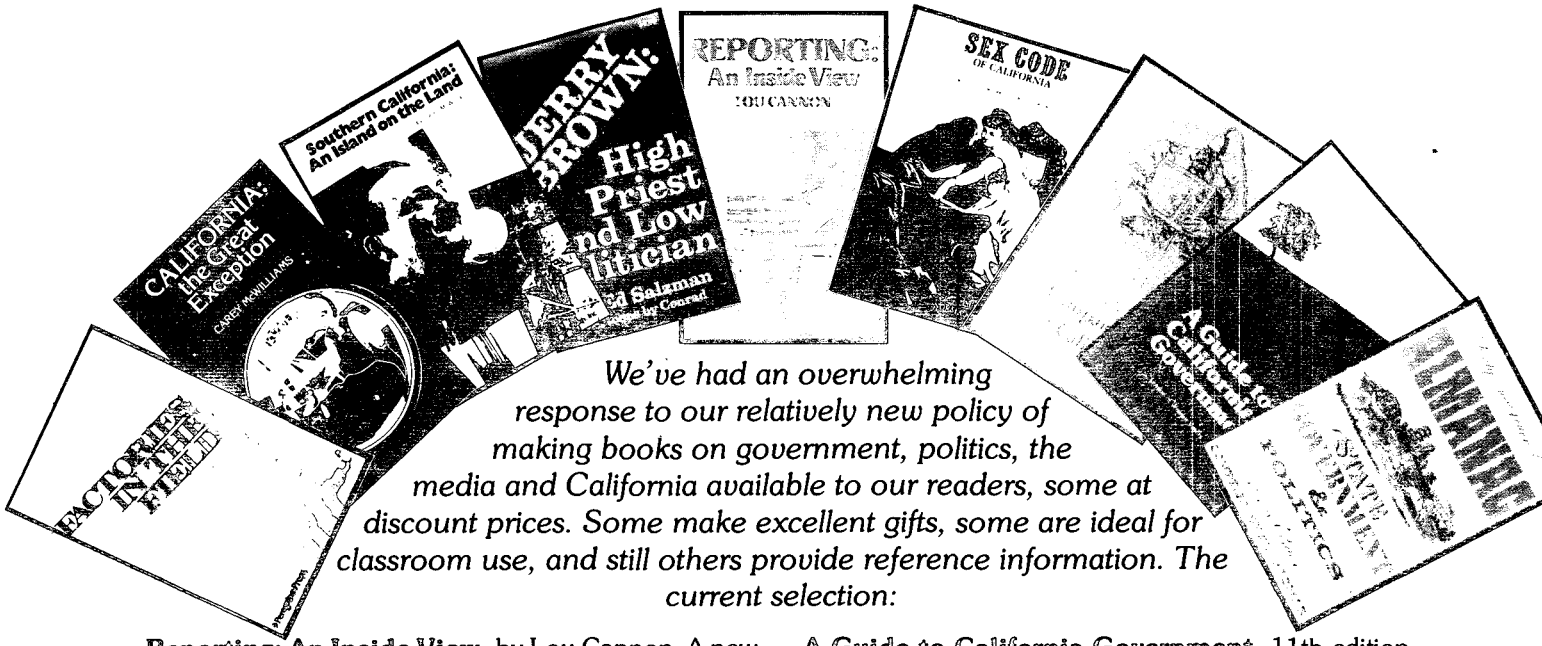

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Any jackass can kick down a barn but it takes a good carpenter to build one.

— Sam Rayburn

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